

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Bernardo Gabriel Borbor Mera,

Petitioner,

v.

Pamela Bondi, Attorney General,

0:25-cv-04298-KMM-EMB

Kristi Noem, Secretary, U.S. Department of
Homeland Security,

Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Sirce Owen, Acting Director for Executive
Office for Immigration Review,

Executive Office for Immigration Review,

David Easterwood, Acting Director, St. Paul
Field Office Immigration and Customs
Enforcement,

and,

Ryan Shea, Sheriff of Freeborn County.

**PETITIONER'S REPLY IN
SUPPORT OF EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER**

INTRODUCTION

The Court should reject Respondents' premise that essentially two executive branch wrongs make a right. The Court first must observe that Respondents do not dispute that Respondents violated the law by detaining Petitioner for expedited removal proceedings and issuing him an expedited removal order in violation of the stay entered in *CHIRLA v. Noem*. See ECF Doc. 12, at 4. Respondents do not argue that Petitioner's due process rights have not been violated. See generally ECF Doc. 12. Rather, Respondents focus on the likelihood of success of Petitioner's APA claims. Their arguments fail. Petitioner's detention was and continues to be unlawful under both the Fifth Amendment, as a matter of statute, and a matter of regulation. Petitioner is likely to succeed on the merits of his claim. The Court must order his immediate release to ameliorate Petitioner's ongoing loss of liberty.

I. 8 U.S.C. § 1252(A)(2)(B)(II) DOES NOT OPERATE TO DENY REVIEW OF THE PROCESS OF TERMINATING PAROLE.

The Court has jurisdiction to review Petitioner's claims. Section 1252(a)(2)(B)(ii) does not strip this Court of jurisdiction as Respondents aver. Petitioner is not challenging a discretionary determination made consistent with the law. Rather, Petitioner challenges Respondents utter abandonment of any semblance of compliance with the "'procedure surrounding the substantive decision' to revoke his parole." *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2822640, at

*2 (E.D.N.Y. Oct. 3, 2025). Ensuring compliance with basic procedure is within the Court’s jurisdictional wheelhouse.

The Court has jurisdiction “to consider the question of *how* Respondents exercised their discretion—that is, whether the way Respondents acted accords with the Constitution and the laws of this country.” *Id.* An “agency action is not “specified ... to be in the discretion” of the official where the action “was not performed in accordance with the mandatory ... procedures.” *Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *6 (S.D. Cal. Oct. 1, 2025) (quoting *Sharkey v. Quarantillo*, 541 F.3d 75, 86 (2d Cir. 2008)). A challenge to the scope or range of statutory authority is not a matter of discretion either. Courts regularly evaluate whether a government action is permissible without delving into assessing the outcome itself. *See Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1140 (D. Or. 2025) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001)). The Court has jurisdiction over Petitioner’s claims.

II. PETITIONER’S APA CLAIMS PROPERLY FALL WITHIN THE SCOPE OF HIS PETITION.

Respondents attempt to distract the Court by alleging that Petitioner’s APA claims are not properly raised in this habeas action. Respondents’ citations, however, bear no relation to Petitioner’s claims. *See* ECF Doc. 12, at 13-14; *Spencer v. Haynes*, 774 F.3d 467 (8th Cir. 2014) (holding federal prisoner improperly used habeas petition to assert a conditions-of-confinement Eighth Amendment claim);

Kruger v. Erickson, 77 F.3d 1071 (8th Cir. 1996) (concluding habeas petition did not make any colorable allegation that underlying conviction was invalid or that prisoner was otherwise being denied his freedom from unlawful incarceration and was in actuality a § 1983 claim that had been previously rejected by the state courts). The cases cited in *Canada v. Olmsted County Cmty. of Corrs* pointed out that civil complaints filed by prisoners are subject to the Prison Litigation Reform Act (PLRA), which has “wholly different rules and procedures” from habeas petitions. 2022 WL 607482, at *8 (D. Minn. Mar. 2022) (first citing *See Smith v. Fikes*, No. 20-CV-1294 (JRT/TNL), 2020 WL 6947848, at *1 (D. Minn. Oct. 12, 2020), *report & recommendation adopted*, 2020 WL 6947433 (D. Minn. Nov. 25, 2020); and then citing *Malcom v. Starr*, No. 20-CV-2503 (MJD/LIB), 2021 WL 931213, at *2 (D. Minn. Mar. 11, 2021)). Those cases are wholly inapposite, however, because the PLRA does not apply to immigration detainees. *See Zongo v. Brott*, No. CV 21-407 (NEB/BRT), 2022 WL 2182196, at *3 (D. Minn. Mar. 30, 2022), *report and recommendation adopted*, No. 21-CV-407 (NEB/BRT), 2022 WL 2181759 (D. Minn. June 16, 2022).

The “Frankenstein pleadings” that Respondents refer to from *Patel v. Noem*, No. 25-cv-3167 (ECT/DJF) (D. Minn. Sept. 12, 2025), combined a habeas with a petition for a writ of mandamus asking the court to order USCIS to adjudicate the

petitioner's U visa application.¹ There is no correlation between evaluating the cause of detention and ordering another agency to act on a benefit application. Petitioner agrees that such cobbling of ideas and remedies is too disjointed to sustain. There is no concern here that there is a tenuous link between the cause of Petitioner's detention and why it persists. It is the failure to adhere to the law and regulation that is causing his confinement. Petitioner asks for his release from unlawful detention because he maintains he is still a parolee. *Patel* is inapposite.

Respondents' litany of citations try to muddle the issues before the Court. Petitioner is challenging the fact of his confinement. Not the corresponding conditions or the policies that govern the conditions themselves. Petitioner's claims are accordingly properly pled and purposefully focused on the legal actions that have caused his indefinite detention.

Moreover, the APA properly contemplates habeas corpus relief. *See* 5 U.S.C. § 703 ("including actions for...habeas corpus"). Habeas claims may challenge detention that is "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2441(c)(3). "That includes an attack on the legality of custody based on violations of the APA. Courts considering the claim raised here have also

¹ While not particularly important, it is also worth noting that this matter also involved a post removal order petition. This petition was also to stymie removal as much as secure release. The instant Petition does not want for a singular focus – release.

addressed the interplay between the APA and habeas relief. A claim under the APA challenging the procedures employed in detaining an individual may be reviewed in ‘any applicable form of legal action, including actions for ... writs of ... habeas corpus, in a court of competent jurisdiction.’” *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2822640, at *5 (E.D.N.Y. Oct. 3, 2025) (citing 5 U.S.C. § 703).² Other courts have ordered “release of a petitioner from detention upon the agency’s failure to comply with statutory or regulatory procedure.” *Id.* at *6 (citing *Calderon v. Sessions*, 330 F. Supp. 3d 944, 959 (S.D.N.Y. 2018) (granting petition for writ of habeas corpus because “Respondents have violated the APA and the Due Process Clause of the Fifth Amendment”), *appeal withdrawn*, 18-2926, 2018 WL 6920377 (2d Cir. Oct. 5, 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (ordering release of petitioner where ICE failed to follow its own regulations and procedures); and, *Y-Z-L-H*, 2025 WL 189025, at *13).

The Court should concur with its brethren that Petitioner’s “underlying [APA] arguments do not subsume the core of the habeas petition, simply upon mention of the APA.” *Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *6 (S.D. Cal. Oct. 1, 2025) (citing *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 151-52

² Courts have rejected Respondents’ reliance on *Trump v. J.G.G.*, 604 U.S. 670 (2025). *See, e.g., Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2822640, at *5 (E.D.N.Y. Oct. 3, 2025) (“Respondents’ reliance on *J.G.G.* is inapposite. There, ‘the [petitioners initially] sought relief in habeas among other causes of action, but they dismissed their habeas claims.’”).

(W.D.N.Y. 2025)). Petitioner's habeas claims, including the APA violations, arise under 28 U.S.C. § 2441 and are properly brought.

III. THE CBP ONE PAROLE PROCESS GRANTED PAROLE ON AN INDIVIDUALIZED, CASE-BY-CASE BASIS.

Respondents' assertion that no individualized determination took place in granting Petitioner CBP One parole is disingenuous. *See* ECF Doc. 12, at 17. Respondents misrepresent the CBP One parole process. This requires an explication of CBP One parole process.

“During the Biden Administration, DHS began directing noncitizens to use the CBP One mobile application as the primary, if not exclusive, mechanism to seek parole and/or asylum at the southwestern border.” *Coalition for Human Immigrant Rights v. Noem*, No. 25 Civ 872 (JMC), 2025 WL 2192986, at *8 (D.D.C. Aug. 1, 2025) (citing, *inter alia*, Circumvention of Lawful Pathways, 88 Fed. Reg. 31314, 31317–18 (May 16, 2023)). The CBP One application was “an innovative mechanism for noncitizens to schedule a time to arrive at [Ports of Entries (POEs)] along the [Southwest Border], to allow an increasing number of migrants who may wish to claim asylum to request an available time and location to present and be inspected and processed at certain POEs.” *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31314, 31318. From DHS itself,

All individuals processed at POEs are thoroughly screened and vetted, and individuals who pose a national security or public safety concern are detained. On a case-by-case basis, those with CBP One

appointments may be enrolled in immigration proceedings that will determine whether they have a legal basis to remain in the United States.... Individuals who present at one of eight POEs ... with CBP One appointments along the Southwest Border *are vetted and processed, which includes biographic and biometric security vetting and background screening.* Individuals who are processed into the United States are generally placed into immigration proceedings and, on a case-by-case basis, may be considered for a period of parole for up to two years to continue their immigration proceedings under Title 8 of the Immigration and Nationality Act.... Appointments do not guarantee admission or parole. CBP Officers determine on a case-by-case basis whether each applicant may be paroled into the United States including while they go through immigration proceedings.

DHS, “Fact Sheet: CBP One Facilitated Over 170,000 Appointments in Six Months, and Continues to be a Safe, Orderly, and Humane Tool for Border Management” (Aug. 3, 2023), <https://www.dhs.gov/archive/news/2023/08/03/fact-sheet-cbp-one-facilitated-over-170000-appointments-six-months-and-continues-be> (emphasis added). *See also* Customs & Border Protection, CBP One: Policies, Guides, Training, Memos (Sept. 26, 2024), at 12, U.S. Customs & Border Protection FOIA Reading Room, <https://perma.cc/XGP9-G5AP> (PDF) (directing CBP officers to consider “the totality of the individual case circumstances” while making case-by-case parole determinations).

Respondents attempt to mislead the Court by averring that “[n]othing in the record evidences individualized findings with respect to such issues as flight risk, dangerousness to the community, or any particular humanitarian need or basis for the parole.” ECF Doc. 12, at 3. This is simply incorrect and belittles the work of

federal officials who in fact reviewed each request. Politically charged, factually inaccurate statements, such as that “Secretary Mayorkas granted parole categorically” and that “Secretary Noem’s decision...*restore[s]* the traditional case-by-case process,” ECF Doc. 12, at 17, are not reflected in any agency document, and notably not submitted here to substantiate the assertions.

CBP One parolees, like Petitioner, were inspected, screened, and granted parole on a case-by-case basis. *See supra*. Petitioner appeared for his individual CBP One appointment at the Port of Entry after submitting an application that included his identity documents and key biometric data. A CBP Officer then reviewed his responses in person at a controlled time and place. A CBP Officer granted parole after an individualized assessment of Petitioner’s specific data and application responses. Respondents’ claim that Petitioner was blindly and categorically granted parole with no individualized assessment is contrary to the record in this case and the public announcements made while the CBP One program operated.

IV. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.

Respondents argue that Petitioner is not likely to succeed on the merits of his APA claims and that the Court should therefore deny the TRO. *See* ECF Doc. 12, at 10-20. Respondents’ arguments do not address many important points, but rather rely on the fact that a blind, unsigned email was sent to anyone with an email address.

The exact opposite of anything individualized. Petitioner is likely to succeed on the merits,³ so the Court should grant the TRO.

A. Respondent's Termination of Petitioner's Parole Violated the Regulations.

The question is whether Petitioner's parole was lawfully terminated in accordance with the statute and regulations. Respondents cannot point to anything showing that it was.

The regulations state that termination prior to the expiration of time for which the parole was authorized is only possible “upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in [8 C.F.R. § 212.5(a)], neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States.” 8 C.F.R. § 212.5(e)(2)(i). Respondents cannot show that either criterion was met here, so Petitioner is likely to succeed on the merits.

Respondents do not contend that Petitioner's parole was terminated “upon accomplishment of the purpose for which parole was authorized.” *See generally* ECF Doc. 12. And there certainly is no colorable argument that it was, since Petitioner

³ Petitioner focuses on the APA claims in this reply memorandum because Respondents focus their response on the APA claims. *See generally* ECF Doc. 12. Petitioner reiterates the due process claims set forth in his initial memorandum in support of the TRO and avers that he is likely to succeed on the merits of those claims.

was paroled for the purpose of participating in removal proceedings in the immigration court, and those removal proceedings were still pending at the time of the purported termination of Petitioner's parole. *See* DHS, "Fact Sheet: CBP One Facilitated Over 170,000 Appointments in Six Months, and Continues to be a Safe, Orderly, and Humane Tool for Border Management" (Aug. 3, 2023), <https://www.dhs.gov/archive/news/2023/08/03/fact-sheet-cbp-one-facilitated-over-170000-appointments-six-months-and-continues-be> (explaining individuals who appear for CBP One appointments, "on a case-by-case basis, may be considered for a period of parole for up to two years to continue their immigration proceedings under Title 8 of the Immigration and Nationality Act" (emphasis added)).

That leaves only one option: that Petitioner's parole was terminated because "in the opinion of one of the officials listed in [8 C.F.R. § 212.5(a)], neither humanitarian reasons nor public benefit warrants the continued presence of [Petitioner] in the United States." *See* 8 C.F.R. § 212.5(e)(2)(i). This is not an unfettered grant of discretion. This is qualified—the "opinion" must (1) be that *neither* humanitarian reasons *nor* public benefit warrant the noncitizen's continued presence, and (2) come from one of the officials listed at 8 C.F.R. § 212.5(a). *See id.* There is more required than "solely" an "opinion" as Respondents state. *See* ECF Doc. 12, at 11. There is a requisite "why" and "who."

The mass boilerplate email here does not comport with these requirements. The “why” and “who” are left out. The mass email simply states, “DHS is now exercising its discretion to terminate your parole.” *See* Exh. D. Nothing in the record illuminates the reason for this termination—whether it was because the purpose of parole was accomplished or because neither humanitarian reasons nor public benefit warrants Petitioner’s presence, and the rationale for that determination. Even Respondents’ declaration from the deportation officer simply states, “On April 11, 2025, BORBOR’s parole was revoked.” *See* ECF Doc. 13, at 2. It does not say for what reason or by whom. *See id.* Nothing in the record shows that the termination of Petitioner’s parole met the most basic requirements of 8 C.F.R. § 212.5(e)(2)(i).

Respondents assert that the termination was done because in the Secretary’s opinion, neither humanitarian reasons nor public benefit warrants the continued presence of Petitioner in the United States. But the mass termination email comes from a no-reply email address, is not signed by any government official, and does not state who in DHS made this determination.⁴ If parole is terminated because of

⁴ Moreover, the mass email was not addressed to any specific recipient, and indeed, it “was sent in such an indiscriminate manner that DHS emailed it to some immigration lawyers who are U.S. citizens, urging them to depart the United States.” Complaint at 13, *Doe v. U.S. Dep’t of Homeland Security*, No. 1:25-cv-12245 (D. Mass. Aug. 11, 2025) (citing Miriam Jordan, Jazmine Ulloa, and Hamed Aleaziz, *They Followed the Rules. Now Thousands of Migrants Are Told, ‘Leave,’* N.Y. Times (Apr. 15, 2025)). This shows that there is no true way to decipher whether the email was sent to the recipient on purpose or by fluke.

the “opinion” that “neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States,” the regulation requires that the “opinion” come from “one of the officials listed in paragraph (a) of this section.” 8 C.F.R. § 212.5(e)(2)(i). Those officials are

the Assistant Commissioner, Office of Field Operations; Director, Detention and Removal; directors of field operations; port directors; special agents in charge; deputy special agents in charge; associate special agents in charge; assistant special agents in charge; resident agents in charge; field office directors; deputy field office directors; chief patrol agents; district directors for services; and those other officials as may be designated in writing, subject to the parole and detention authority of the Secretary or his designees.

8 C.F.R. § 212.5(a). In this case, there is no way to decipher whose “opinion” it supposedly was that neither humanitarian reasons nor public benefit warrants the continued presence of Petitioner in the United States because the email simply states, “DHS is exercising its discretion,” comes from a no-reply email address, and is not signed by any government official. Respondents claim it was the Secretary herself who made this determination, but do not cite to anything to support this. *See* ECF Doc. 12, at 17-18. The mass email therefore fails to comport with the requirements of 8 C.F.R. § 212.5(e)(2)(i).

B. Petitioner’s Detention Fails to Serve a Public Interest

Respondents’ own guidance confirms that Petitioner’s detention is not in the public interest and, therefore, parole is appropriate. “[I]f an asylum-seeker

establishes h[is] identity and that [h]e presents neither a flight risk nor a danger to the public, h[is] detention ‘is not in the public interest,’ and thus ICE ‘should, absent additional factors ... parole the alien.’” *Mons v. McAleenan*, 2019 WL 4225322, at *2 (D.D.C. Sept. 5, 2019) (quoting ICE Directive 11002.1, Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture ¶ 6.2 (Dec. 8, 2009) (emphases added)). Petitioner established his identity and that he presents neither a flight risk nor a danger to the public when he was inspected at his CBP One appointment. *See supra* § The CBP One Parole Process Granted Parole on an Individualized, Case-By-Case Basis. Nothing supports a finding that he is now a danger or flight risk because he has no criminal history and traveled all the way from Georgia to Minnesota to attend his first immigration court hearing when he was detained. Therefore, any assertion that “neither humanitarian reasons nor public benefit warrants the continued presence [Petitioner] in the United States” contravenes Respondents’ own published guidance.

Petitioner is likely to succeed in showing that his parole termination violated the regulations because the purpose for which parole was authorized has not been accomplished, and Respondents’ own guidance undermines any argument that neither humanitarian reasons nor public benefit warrants his continued presence in the United States. *See* 8 C.F.R. § 212.5(e)(2)(i). Petitioner is also likely to succeed in showing that his parole termination violated the regulations because it did not

comport with the written notice requirements since it was not addressed to him, it was not signed by any government official, and it was sent from a no-reply email address.

The termination of Petitioner's parole did not meet the regulatory requirements. Respondents must observe the rules, regulations or procedures which it has established. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The termination was not lawful, so Petitioner's detention pursuant to that termination is not lawful. The Court must grant the TRO.

C. The First Circuit's Decision in Doe v. Noem is Distinguishable and Non-Binding.

The APA mandates "an executive agency's exercise of discretion be reasonable and reasonably explained." *Biden v. Texas*, 597 U.S. 785, 815, 142 S.Ct. 2528, 213 L.Ed.2d 956 (2022) (Kavanaugh, J., concurring). Respondents' blanket, generic, unreasoned termination of Petitioner's parole, which has resulted in his ongoing detention, violated the APA. Respondents' overreliance on the First Circuit's decision in *Doe v. Noem*, 152 F.4th 272 (1st Cir. 2025),⁵ is misplaced and unpersuasive.

⁵ The First Circuit only vacated and remanded the District of Massachusetts' stay in *Doe v. Noem*. *See Doe v. Noem*, 152 F.4th 272 (1st Cir. 2025), The underlying case remains pending.

First, this Court is not bound by the First Circuit's decision in *Doe*, 152 F.4th. See *Orellana v. Francis*, 2025 WL 2822640, at *3 (E.D.N.Y. Oct. 3, 2025) (“Just as this Court was not bound by the cited cases of sister courts, it is also not bound by the First Circuit's intervening opinion in *Doe*.”).

Second, *Doe*, 152 F.4th, is distinguishable. *Doe* dealt with CHNV parole termination which is strikingly different than CBP One parole termination.

In terminating CHNV parole, DHS published a Federal Register notice, purporting to rationalize and explain its decision to terminate parole.⁶ See Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans, 90 Fed. Reg. 13611 (March 25, 2025). The CHNV Parole Termination Notice set forth some statements about why DHS believes that program did not serve a significant public benefit.

By contrast, DHS did not publish any Federal Register notice regarding CBP One parole termination. It set forth *no explanation whatsoever* of its decision to terminate parole in its mass generic email. It said nothing. It did not articulate an opinion of any sort. It certainly did not offer anything that correlates to the purposes of § 1182(d)(5). The First Circuit concluded in *Doe* that the plaintiffs had not made

⁶ Petitioner does not concede that the Termination Notice for CHNV parole programs was sufficient to terminate that parole, but simply points out that DHS *at least offered some explanation*, be it as it may, as to why it was terminating CHNV parole. By contrast, DHS gave *no explanation whatsoever* for terminating CBP One parole.

a strong showing that they were “likely to succeed in demonstrating that the Secretary’s action was arbitrary and capricious because she provided a reasoned explanation for terminating grants of parole under the CHNV programs,” *see Doe*, 152 F.4th at 289 (emphasis added). This Court cannot reach that same conclusion here because there was *no explanation at all* was provided for terminating CBP One parole. It was just done.

Respondents likewise do not acknowledge the reliance interests of CBP One parolees when terminating CBP One parole. By contrast, the CHNV Parole Termination Notice seemingly evaluated the potential reliance interests of supporters and beneficiaries. *See Doe*, 152 F.4th at 290 (citing Termination of Parole Processes, 90 Fed. Reg. at 13618-19). That was another reason the First Circuit could not say “that the Secretary’s explanation was *so* deficient that Plaintiffs have made a strong showing that they are likely to succeed” in showing the CHNV parole termination was arbitrary and capricious. *Id.* at 290-91. The matter is here is more akin to *Dep’t of Homeland Security v. Regents of the Univ. of Calif.*, 591 U.S. at 15, 30-33, 140 S.Ct. 1891 (2020), where DHS failed to address the reliance interest of DACA beneficiaries when trying to terminate DACA. *Id.* at 290. The First Circuit’s reasoning again falters here. Thus, there is cause to conclude that Petitioner is likely to prevail on the merits.

D. The Analysis of Other Courts Is Positive Indicia of a Likelihood of Success.

District courts have resoundingly held that an individualized assessment *is* required for parole termination, contrary to Respondents' arguments, and have continued to grant habeas petitions and order petitioners' immediate release after the First Circuit's decision in *Doe v. Noem*. See, e.g., *Salgado Bustos v. Raycraft*, 2025 WL 3022294 (E.D. Mich. Oct. 29, 2025) (pointing out that detention without an individualized assessment carries a high risk of erroneous determination and ordering immediate release); *Navarro Perez v. LaRose*, 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025) (granting the habeas petition because the summary revocation of the petitioner's CBP One parole without consideration of his individualized circumstances violates the Due Process Clause and the APA); *Noori v. LaRose*, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025) (granting habeas petition for CBP One parolee because the government acted arbitrarily and capriciously in violation of the APA and violated due process); *Orellana v. Francis*, 2025 WL 2822640 (E.D.N.Y. Oct. 3, 2025) (denying the respondents' motion for reconsideration because the revocation of the petitioner's parole was unlawful and his resulting detention invalid).

The plethora of well-reasoned decisions identifying the legal wrong that Petitioner asserts here is substantial. Respondents violated the APA and due process in terminating Petitioner's CBP One parole and subsequently detaining him based

on that unlawful parole termination. Petitioner is likely to succeed on the merits of his claim, and the Court must grant the TRO.⁷

CONCLUSION

All the *Dataphase* factors weigh in Petitioner's favor. For the reasons stated above and in Petitioner's initial memorandum in support of the TRO, the Court should grant the TRO.

DATED: November 24, 2025

Respectfully submitted,

/s/ David L. Wilson

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⁷ Petitioner reiterates that the remaining *Dataphase* factors weigh in his favor, as set forth in Petitioner's initial memorandum in support of the TRO.