ERIC GRANT
United States Attorney
DAVID L. GAPPA
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900

Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ZOLFIA HEKMAT, ROYA MOHAMMADI, Petitioners, v. CHRISTOPHER CHESTNUT, et al., Respondents.	CASE NO. 1:25-CV-01674-DAD-SCR **ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS** COURT: Hon. Dale A. Drozd

I. INTRODUCTION

The respondents submit this answer to the petition for a writ of habeas corpus filed on November 28, 2025, by Zolfia Hekmat and Roya Mohammadi (petitioners). They seek relief that includes an order releasing them from custody and preventing their redetention without an individualized redetermination of their risk of flight and/or danger to the community. The court should deny the petition because the petitioners are lawfully detained under controlling mandatory detention provisions. Both petitioners failed to comply with conditions related to their temporary parole into the United States, and they both have the opportunity to continue pursuing an application for asylum while in custody.

II. FACTUAL BACKGROUND

Petitioners are natives and citizens of Afghanistan who arrived at the United States border at San Ysidro, California on or about May 26, 2024. Attachment A, Declaration of Patrick J. Cruz at ¶ 5; Attachment B, Declaration of Ana. L. Juarez at ¶ 5. Neither petitioner had any valid unexpired

immigrant visa, reentry permit, border crossing identification card, or other valid entry document that authorized legal entry into the United States. As a result, both petitioners were placed into removal proceedings with notices to appear before an immigration judge. *Id.* Neither petitioner was admitted into the United States; rather, both petitioners received the benefit of being paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA). *Id.* Both petitioners appeared before an immigration judge on January 22 or 23, 2025, and admitted that they were removable from the United States because they had no valid immigration document that entitled them to enter or remain in the United States. Both petitioners submitted an application for asylum that remains pending. Attachment A, Declaration of Patrick J. Cruz at ¶ ¶ 7, 13; Attachment B, Declaration of Ana. L. Juarez at ¶¶ 7, 11.

Immigration and Customs Enforcement (ICE) enrolled both petitioners into the Intensive Supervision Appearance Program (ISAP) on June 20, 2024. Attachment A, Declaration of Patrick J. Cruz at ¶ 6; Attachment B, Declaration of Ana. L. Juarez at ¶ 6. This program obligated the petitioners to periodically report into an immigration office. Contrary to the assertions in their petition (Docket Item 1, ¶ 47) petitioners failed to comply with conditions of parole by missing mandated check ins five or six times on dates between December 2024 and August 2025. Attachment A, Declaration of Patrick J. Cruz at ¶ 8; Attachment B, Declaration of Ana. L. Juarez at ¶ 8. Petitioner Hekmat violated her ISAP requirements on January 27, 2025, by failing to complete a biometric check in. She also violated the ISAP requirements by failing to complete check ins on March 31, 2025, and April 18, 2025. Attachment A, Declaration of Patrick J. Cruz at ¶ 9.

Immigration and Customs Enforcement officers executed an administrative warrant for arrest (Form I-200) of each petitioner on October 8, 2025. Attachment A, Declaration of Patrick J. Cruz at ¶ 11; Attachment B, Declaration of Ana. L. Juarez at ¶ 9. The agency did this because each petitioner had violated the terms of their ISAP agreement. Attachment A-1 (Warrant for Arrest of Alien); Attachment B-1 (Warrant for Arrest of Alien). Both petitioners have asylum hearings scheduled for February 13, and February 23, 2026, at an immigration detention facility. Attachment A, Declaration of Patrick J. Cruz at ¶ 13; Attachment B, Declaration of Ana. L. Juarez at ¶ 11. These dates for hearing

are considerably earlier than they likely would be if petitioners were not detained.[1]

III. ARGUMENT

A. Section 1225 Applies to Petitioners because They are Aliens Who Have Not been Admitted into the United States.

Petitioners are not United States citizens but instead are applicants for admission to this country who are subject to mandatory detention. Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) in 1996. As relevant here, Congress enacted what is now 8 U.S.C. § 1225, which requires the detention of any alien "who is an applicant for admission" and defines that term to encompass any "alien present in the United States who has not been admitted" following inspection by immigration authorities. 8 U.S.C. § 1225(a), (b)(2)(A). The IIRIRA divided removal proceedings into two tracks—expedited removal and non-expedited "Section 240" proceedings—and mandated that applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-(2).

Section 1225(b)(1) provides for so-called "expedited removal proceedings," *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which can potentially be applied to a subset of aliens—those who (1) are "arriving in the United States," or who (2) have "not been admitted or paroled into the United States" and have "not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(i)-(iii). As to these aliens, the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum … or a fear of persecution." *Id.* § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear or persecution and, if found not to have such fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.5(b)(4)(ii). An alien processed for expedited removal who does not indicate an intent

[1] https://missionlocal.org/2025/12/sf-immigration-asylum-ice-court-backlog/ (noting that the Concord immigration court, to which petitioners submitted applications for asylum, has a backlog of more than 60,000 pending cases).

to apply for a form of relief from removal is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

Section 1225(b)(2) is a "catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)]." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It requires that those aliens be detained pending Section 240 removal proceedings:

> Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added).[2] *See* 8 C.F.R. § 253.3(b)(1)(ii) (mirroring Section 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that Section 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin").

While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA grants the Department of Homeland Security discretion to exercise its parole authority to temporarily release an applicant for admission, but "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Parole, however, "shall not be regarded as admission of the alien." *Id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that "the purposes of such parole … been served," the "alien shall … be returned to the custody from which he was paroled" and be "dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A).

The petitioners here are both arriving aliens subject to mandatory detention. They were granted temporary parole in the United States, but contrary to their assertion (Docket Entry 1, ¶ 41), they have not "already entered the United States." They are seeking asylum in the United States, but they were never admitted to the United States. And more recently their parole has been terminated. Under the plain language of 1225(b)(2), the government is required to detain all aliens, like the petitioners, who are present

[2] Subsection (b)(2) does not apply to (1) aliens subject to expedited removal, (2) crewmen, (3) stowaways, or (4) aliens who "arriv[e] on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States." 8 U.S.C. § 1225(b)(2)(B)-(C).

in the United States without admission and who are subject to removal proceedings. The fact that the petitioners were out of custody for a period of time while they pursued their asylum claims – while failing to comply with the ISAP program – does not change the fact that they have never been lawfully admitted to the United States. Section 1225 applies broadly to all aliens, including these petitioners, who are "present in the United States who ha[ve] not been admitted" *Altamirano Ramos*, 2025 WL 3199872, at *4. And they must be detained pending a decision on their removability from the United States.

B. The Petitioner's Due Process Rights have not been Violated.

There is no merit to the petitioner's claims that their due process rights have been violated.[3] The attached declarations refute each petitioner's allegation that there was no basis for ICE to arrest them under the authority of the administrative arrest warrants. Each petitioner repeatedly violated the terms of the ISAP agreement issued in conjunction with the agency's grant of parole. The agency had a sound basis upon which to conclude that neither petitioner should remain at liberty given the number of times that each person failed to complete the required check in process or provide necessary biometric information.

Numerous courts have held that regulations "do not create independent substantive rights that override the statutory grant of detention authority." *Sanchez v. Pam Bondi, et al.*, 5:25–cv–02530–AB–DTB Dkt. 8, 2025 U.S. Dist. LEXIS 196639, at *7 (C.D. CA Oct. 3, 2025) (citing *Zadvydas*, 533 U.S. at 701 and *Jane Doe 1 v. Nielsen*, 357 F. Supp. 3d 972, 1000 (N.D. Cal. 2018) (concluding that agency rules must prescribe substantive law, not merely procedural or policy guidance, to be enforceable)). *See also Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019) (rejecting petitioner's argument that revocation of his release was unlawful due to the failure to provide an informal interview and holding that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removal was reasonably foreseeable); *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018) (holding that even if the ICE detainee petitioner had not received a timely interview following her return

[3] The petition alleges a violation of "Mr. Soleimani's" rights, but presumably reference is to petitioners Zolfia Hekmat and Roya Mohammadi.

to custody, there was "no apparent reason why a violation of the regulation … should result in release.").

If the court were to determine that any relevant regulations had not been followed in this case, the appropriate remedy for any such procedural deficiency would not be automatic release from custody. Rather, it would be to remedy the specific procedural deficiency that might be established. Injunctive relief must be *narrowly tailored* to the wrong. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022) ("And we note that even when there are deficiencies in individual § 1226(a) proceedings, they may be redressable through means short of major changes to the burden of proof.").

Nor has ICE violated the Administrative Procedure Act by terminating each petitioner's parole and placing them back into custody while their applications for asylum are adjudicated. The administrative arrest warrants have informed petitioners what they already knew: each failed to comply with the important provisions of the ISAP agreement implemented with the decision to grant them parole into the United States. Making one appearance at an immigration proceeding after repeatedly missing five or six mandated agency check in appointments does not render the agency's decision to detain the petitioners arbitrary, irrational, or an abuse of discretion.

Petitioners concede that any Fourth Amendment reasonableness inquiry must be guided by facts specific to each challenged action. Here immigration authorities graciously permitted petitioners to pursue asylum applications while at liberty if they agreed to abide by important obligations outlined in an ISAP agreement. Each petitioner repeatedly failed to abide by terms of the ISAP and this justifiably heightened the agency's concern that the petitioners were a greater risk of flight should their applications for asylum be denied. Both petitioners are scheduled for asylum hearings on February 13 and February 23, 2026. Attachment A, Declaration of Patrick J. Cruz at ¶ 13; Attachment B, Declaration of Ana. L. Juarez at ¶ 11. The agency can reassess the parole decision once each petitioner's asylum claim is heard, and until then the agency is properly exercising its authority to detain the petitioners.

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IV. CONCLUSION

For the reasons set forth above, the court should deny the petition for a writ of habeas corpus for each petitioner.

Dated: December 16, 2025

ERIC GRANT
United States Attorney

By: /s/ DAVID L. GAPPA
DAVID L. GAPPA
Assistant United States Attorney