

1 **Brian J. McGoldrick**
2 *Pro Bono* Counsel for Petitioner
3 4916 Del Mar Avenue
4 San Diego, California 92107
5 Telephone: (619) 675-2366
6 attorney@brianmcgoldrick.com

7
8 Attorneys for Mr. Mohammadi

9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **RAMUDIN MOHAMMADI,**
13
14 **Petitioner,**

15 **v.**

16 **CHRISTOPHER LAROSE,** warden of
17 **Otay Mesa Detention Center**
18 **DANIEL A. BRIGHTMAN,** San Diego
19 **Field Office Director, Immigration and**
20 **Customs Enforcement and Removal**
21 **Operations (“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-03450-JES-BJW

PETITIONER’S REPLY TO
RESPONSE

1 INTRODUCTION

2 Ramudin Mohammadi is a citizen of Afghanistan who was flown to the
3 United States during Operation Allies Welcome. He was processed at Fort Dix
4 and was released on Humanitarian Parole so he could file asylum and apply for
5 another immigration benefits for which he qualified. But despite complying with
6 all his requirements and submitting his affirmative asylum application, Mr.
7 Mohammadi was detained at Camp Pendleton on November 28, 2025 while he
8 was lawfully working as an Uber driver. He was held there nearly an hour for the
9 arrival of ICE agents. When ICE agents arrived he was handed over to them
10 without any notice or explanation, ICE ignored his parole status and took him into
11 custody. He was held in the downtown San Diego facility and was then
12 transferred to the Otay Mesa Detention Facility. On November 29, 2025, one day
13 after his arrest, he was placed in removal proceedings by issuing a new NTA
14 before an immigration judge, thereby terminating his affirmative asylum
15 proceedings previously filed with USCIS.

16 Mr. Mohammadi filed a habeas petition on December 7, 2025 to contest his
17 unlawful arrest and detention on November 28, 2025. His arrest was unlawful for
18 being made without cause in violation of the Fourth Amendment to the
19 Constitution. His arrest and detention are unlawful as they occurred without due
20 process guaranteed by the Fifth Amendment to the Constitution and because they
21 violate the Administrative Procedures Act and for other reasons as set out more
22 fully below.

23 First, this Court has jurisdiction to consider the claims asserted in
24 Mr. Mohammadi's habeas petition, for three reasons. First, Mr. Mohammadi's
25 claims are inextricably intertwined with the government's authority to detain him,
26 which this Court has jurisdiction to review. Second, this Court has jurisdiction to
27 consider whether the agency has complied with due process and its mandatory,
28 nondiscretionary duties. Finally, even if Mr. Mohammadi's claims *were* precluded

1 by the Immigration and Nationality Act, which they are not, this Court could
2 review them under the Suspension Clause. Thus, no jurisdictional bars prevent
3 this Court from reviewing Mr. Mohammadi's claims.

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

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

23 **STATEMENT OF FACTS**

24 **I. Mr. Mohammadi does not contest the government's authority to**
25 **initiate removal proceedings.**

26 The government's first argument against the petition is that his claim is
27 barred because he contests the government's right to initiate removal proceedings.
28 This completely misstates the argument. Mr. Mohammadi does not contest the

1 government's ability to initiate removal proceedings. Mr. Mohammadi contends
2 that his detention was unlawful at its commencement. He was paroled into the
3 United States so was here lawfully for the duration of his parole or his parole had
4 been properly revoked. Neither of those conditions had been met when he was
5 held without cause by the Military Police on Camp Pendleton nor when ICE
6 arrived and took him into custody on November 28, 2025.

7
8 The government completely dismisses this unlawful arrest and detention on
9 November 28, 2025. The government's contention seems to be that whatever
10 happened on November 28, 2025 doesn't matter because on November 29, 2025,
11 with the filing of a new NTA, Mr. Mohammadi's parole was now revoked, he was
12 now in removal and his detention is now lawful. Mr. Mohammadi does not
13 contend that the government didn't have the right to initiate removal proceedings
14 again on November 29, 2025. Mr. Mohammadi contends that when the
15 government did file a new NTA, this didn't somehow magically make their
16 unlawful arrest, detention, revocation of parole and cancellation of his affirmative
17 asylum application lawful.

18 **I. Mr. Mohammadi was paroled into the United States and allowed to**
19 **affirmatively apply for asylum through USCIS.**

20 When Mr. Mohammadi presented themselves at the Dulles port of entry on
21 August 28, 2021, he was granted "OAR" humanitarian parole under 8 U.S.C. §
22 1182(d)(5) and issued an I-94 that permitted them to remain in the United States
23 until the purpose of his admission was accomplished. Mr. Mohammadi was able
24 to file an affirmative asylum claim with USCIS on January 17, 2023. See ECF 1-
25 2, Notice of Asylum Interview.

26 Mr. Mohammadi's parole allowed him to file his asylum application
27 "affirmatively" through the United States Citizenship and Immigration Services
28 (USCIS), rather than "defensively" through removal proceedings. During this

1 affirmative asylum process, an asylum officer “meets informally with the
2 applicant, considers the documents presented with the asylum application, then
3 decides whether asylum should be granted or whether the matter should be
4 referred to an [immigration judge] for formal adjudication.” *Barahona-Gomez v.*
5 *Reno*, 236 F.3d 1115, 1120 (9th Cir. 2001) (citing 8 C.F.R. § 208.2(a);
6 § 208.14(b)(2)). So individuals who file affirmatively through USCIS are not
7 detained, go through a non-adversarial interview process, and are able to obtain
8 work authorization. *See* 8 C.F.R. § 208.7(a)(1); 8 C.F.R. § 274a.12(c)(11).

9 Mr. Mohammadi has complied with all his check-in requirements and
10 submitted his asylum application to USCIS on January 17, 2023. USCIS sent him
11 an acknowledgement of receipt of the application stating, “You may remain in the
12 United States until your asylum application is decided.” Several months later,
13 USCIS issued Mr. Mohammadi a work authorization permit pursuant to 8 C.F.R.
14 § 274a.12(c)(8). Mr. Mohammadi has attended his two interviews and was simply
15 awaiting the final decision.

16 **II. While making an Uber delivery to Camp Pendleton, Mr. Mohammadi**
17 **is arrested, turned over to ICE, and placed in removal proceedings**
18 **with no notice or explanation.**

19 Using his lawful work authorization, Mr. Mohammadi began working as an
20 Uber driver. On November 28, 2025, Mr. Mohammadi was attempting to make a
21 delivery at Camp Pendleton Marine Base. When he approached the gate, he
22 presented his lawfully obtained driver’s license.

23 The military official at the gate instructed Mr. Mohammadi to move over to
24 the side of the lane. Mr. Mohammadi asked several times if he was free to go but
25 was told he could not. He presented proof of his work authorization and proof of
26 his pending asylum application with USCIS, which were ignored. Military
27 personnel detained Mr. Mohammadi for nearly an hour without explaining what
28 law he had broken or what authority they had to arrest him.

Eventually, ICE officials arrived. They did not have a warrant for his arrest.

1 They did not explain what law he had violated. They did not allege that he had
2 violated the conditions of his parole or that his parole was being revoked. Instead,
3 they handcuffed Mr. Mohammadi and transported him to the ICE facility in
4 downtown San Diego before eventually taking him to the Otay Mesa Detention
5 Center.

6 One day *after* Mr. Mohammadi was arrested, ICE issued a Notice to
7 Appear placing Mr. Mohammadi in removal proceedings. ECF 5-2, Notice to
8 Appear. This stripped USCIS of authority to proceed with his affirmative asylum
9 application.

10 **LEGAL ANALYSIS**

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

17 **I. This Court has jurisdiction to consider Mr. Mohammadi's claims.**

18 In cases raising similar claims, the government has argued that this Court
19 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and
20 1252(b)(9). This argument fails here for at least three independent reasons. First,
21 Mr. Mohammadi's claims are inextricably intertwined with the government's
22 authority to detain him, which this Court has jurisdiction to consider. Second, this
23 Court has jurisdiction to review whether the agency has complied with due
24 process and its mandatory, nondiscretionary duties. Finally, even if Mr.
25 Mohammadi's claims *were* precluded by the statute, which they are not, this
26 Court could review them under the Suspension Clause.

27 **A. Mr. Mohammadi's claims challenge the government's authority**
28 **to detain him.**

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

8 They do not. First, Mr. Mohammadi’s claims relate to the government’s
9 authority to detain him, and courts have widely held that review of issues related
10 to detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v.*
11 *Mukasey*, 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction
12 exists to review a challenge to immigration detention based on a citizenship
13 claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that
14 “assertions of illegal detention [were] plainly collateral to ICE’s prosecutorial
15 decision to execute [a detainee’s removal]” and thus not subject to § 1252’s
16 jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)
17 (“[S]ection 1252(g) does not bar courts from reviewing an alien detention
18 order[.]”); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did
19 not apply to a “claim concern[ing] detention”). To undersigned counsel’s
20 knowledge, every judge in this district has held that it has jurisdiction to consider
21 claims that an individual is unlawfully detained.

22 Importantly, all of the claims Mr. Mohammadi asserts in his habeas petition
23 relate to the government’s authority to detain him. In his habeas, Mr.
24 Mohammadi’s asks this Court to find that “the denial of petitioner’s affirmative
25 asylum claim *by detaining him* and commencing new [INA] 240 removal
26 proceedings” violated procedural due process and the Administrative Procedures
27 Act. As this claim suggests, the government’s cancellation of USCIS proceedings
28

1 and commencement of removal proceedings is inextricably intertwined with its
2 authority to detain him, for two reasons.

3 *First*, the government paroled Mr. Mohammadi into the United States
4 through OAR to allow him to apply for asylum. The government never claimed
5 before his detention that the purpose for his entry into the United States had been
6 completed, namely, getting asylum granted.

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

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

27 While it remains unclear whether the government has formally revoked
28 Mr. Mohammadi’s parole, this Court retains jurisdiction regardless. If the agency

1 did not revoke his parole, then his detention in November 2025 violated the
2 agency's own parole decision. And if the agency *did* revoke his parole, then it did
3 so in violation of the statute and regulations, which require written notification
4 and a determination that "purposes of such parole have been served." 8 U.S.C.
5 § 1182(d)(5)(A); 8 C.F.R. § 212.5(e)(2)(i). Either way, this Court has jurisdiction
6 to review the status of Mr. Mohammadi's parole and the government's authority
7 to detain him.

8 *Second*, the termination of Mr. Mohammadi's USCIS proceedings and his
9 placement in proceedings before an immigration judge subjected him to detention
10 under 8 U.S.C. § 1226, which governs custody determinations in removal
11 proceedings. And under § 1226(b), an immigration judge "may revoke" a grant of
12 parole without following the procedural protections of 8 C.F.R. § 212.5(e)(2)(i).
13 Importantly, the Board of Immigration Appeals' recent decision in *Matter of*
14 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), requires immigration judges to
15 hold that individuals in removal proceedings charged with the grounds of
16 inadmissibility (such as Mr. Mohammadi) are subject to mandatory detention and
17 ineligible for bond. In other words, the agency's termination of USCIS
18 proceedings and initiation of immigration court proceedings meant that an
19 immigration judge could 1) revoke Mr. Mohammadi's parole, and 2) declare that
20 he was subject to mandatory detention under *Yajure Hurtado*. Thus, Mr.
21 Mohammadi's substantive claims cannot be divorced from the question of his
22 detention.

23 In sum, the cancellation of Mr. Mohammadi's USCIS asylum proceedings
24 affected the government's authority to detain him by 1) effectively revoking his
25 parole, in violation of the statute and regulations, and 2) subjecting him to
26 mandatory detention. The Supreme Court recently clarified that when petitioners'
27 claims for relief "necessarily imply the invalidity of their confinement and
28 removal," such claims "fall within the core of the writ of habeas corpus." *Trump*

1 v. *J. G. G.*, 672 (2025) (quotations omitted). Because the government’s authority
2 to detain Mr. Mohammadi is thus inextricably intertwined with the claims in his
3 habeas petition, this Court has jurisdiction to consider them.

4 **B. This Court has jurisdiction to consider claims alleging that the**
5 **government failed to comply with its mandatory duties and due**
6 **process.**

7 Even if Mr. Mohammadi’s claims were *not* inextricably intertwined with
8 the government’s authority to detain him, they would still not be jurisdictionally
9 barred. That is because the jurisdictional bars of § 1252 do not bar review of
10 claims that ICE is “failing to carry out non-discretionary statutory duties and
11 provide due process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL
12 1810210, at *3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of*
13 *Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not
14 bar review of “the purely legal question of whether the Constitution and relevant
15 statutes require notice and an opportunity to be heard”).

16 That is precisely what Judge Curiel recently held in a similar case. In *Sayed*
17 *Nasser Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *1
18 (S.D. Cal. Oct. 1, 2025) (no relation to the petitioner), the petitioner was (like this
19 Mr. Mohammadi) an asylum seeker from Afghanistan who “presented himself at
20 the U.S. Port of Entry in San Ysidro, California and applied for admission with a
21 CBP One application.” Immigration officials “paroled him into the United States”
22 under the same type of “DT” humanitarian parole as Mr. Mohammadi. *Id.* But
23 after the government cancelled the petitioner’s removal proceedings and placed
24 him in expedited removal, he filed a habeas petition, and the government argued
25 that §§ 1252(g) and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.*
26 at *5.

27 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,
28 noting that “Petitioner does not challenge the decision to commence proceedings.”
Id. at *6. Instead, “Petitioner challenges the legality of the revocation of

1 humanitarian parole in violation of the law and dismissal of ongoing removal
2 proceedings without due process.” *Id.* So even assuming the agency’s revocation
3 of parole “constitutes a decision or action to adjudicate cases,” that action is not
4 “in the discretion” of the agency under § 1252(g) where it was “not performed in
5 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,
6 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

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

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

28

1 **C. Mr. Mohammadi’s claims do not fall within the plain language of**
2 **§ 1252 and if they did, the statute would violate the Suspension**
3 **Clause and Due Process.**

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

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

17 Here, Mr. Mohammadi’s challenge does not fall within any of the three
18 categories of § 1252(g). He does not challenge the agency’s decision to
19 “commence proceedings” under § 1252(g) because his asylum proceedings had
20 already “commenced” before USCIS. Nor does he challenge the agency’s
21 decision to “adjudicate” his case—only the arbitrary decision to switch from one
22 adjudicator (USCIS) to another (immigration court) mid-stream. And Mr.
23 Mohammadi could not challenge the agency’s ability to “execute [his] removal
24 order” given that he doesn’t have one. Reading § 1252(g) “narrowly,” *Ibarra-*
25 *Perez*, 154 F.4th at 991, thus shows that Mr. Mohammadi’s claims do not fall
26 within any of these three categories.

27 The same is true of § 1252(b)(9). This section bars “[j]udicial review of all
28 questions of law and fact, including interpretation and application of

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

15 Here, Mr. Mohammadi does not challenge any decision that the BIA or a
16 circuit court could review as part of a final order of removal. Nor could he, since
17 the agency has yet to issue a decision regarding his removal. Rather, he seeks
18 review of the agency’s parole revocation and termination of his USCIS asylum
19 proceedings, which do not relate to the substance of his removal proceedings.
20 Thus, neither provision in § 1252 strips this Court of jurisdiction to hear his
21 claims.

22 But even if the government’s expansive reading of § 1252 *were* correct, this
23 Court could still hear Mr. Mohammadi’s claims under the Suspension Clause.
24 Under the Suspension Clause, “[t]he Privilege of the Writ of Habeas Corpus shall
25 not be suspended, unless when in Cases of Rebellion or Invasion the public Safety
26 may require it.” U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when
27 “Congress intended to strip all courts of jurisdiction over [a petitioner’s] claim,
28 the Suspension Clause of the Constitution nonetheless requires that [he] may

1 bring his challenge through the writ of habeas corpus.” *Ragbir v. Homan*, 923
2 F.3d 53, 57–58 (2d Cir. 2019), *cert. granted, judgment vacated sub nom. Pham v.*
3 *Ragbir*, 141 S. Ct. 227 (2020). In determining the reach of the Suspension Clause,
4 courts are required to consider “(1) the citizenship and status of the detainee and
5 the adequacy of the process through which that status determination was made;
6 (2) the nature of the sites where apprehension and then detention took place; and
7 (3) the practical obstacles inherent in resolving the prisoner’s entitlement to the
8 writ.” *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

9 In *Noori*, Judge Curiel applied these factors to hold that review was also
10 available under the Suspension Clause. *See* 2025 WL 2800149, at *9. Judge
11 Curiel explained that “although Petitioner is not a citizen, he was paroled into the
12 United States upon a finding that he was not a flight risk or a danger to the
13 community,” and has “remained here for more than a year,” “received a work
14 authorization,” and “developed ties to the community.” *Id.* Judge Curiel also
15 noted that the petitioner was “apprehended and detained within the United
16 States,” and there was “no evidence that Petitioner is a danger to the community
17 or a flight risk—in fact, Respondents decided to parole Petitioner when he arrived
18 without ties to the community after determining that he did not have any criminal
19 history and then approved a work authorization.” *Id.* Judge Curiel thus concluded
20 that “even if Section 1252 precluded the Court from reviewing Respondents’
21 decision to terminate Petitioner’s parole and detain him, the Court would have
22 jurisdiction to review this decision under the Suspension Clause.” *Id.*

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

1 Suspension Clause.

2 **II. On the merits, the government's actions violated the Administrative**
3 **Procedures Act and due process.**

4 Moving to the merits, Mr. Mohammadi presents two claims. First, he
5 argues that the agency's effective revocation of his parole violated the
6 Administrative Procedures Act and procedural due process. Second, he argues
7 that the agency's termination of his affirmative asylum proceedings before USCIS
8 also violated the Administrative Procedures Act and procedural due process.

9 **A. Revoking Mr. Mohammadi's parole and subjecting him to**
10 **detention violates the Administrative Procedures Act and Due**
11 **Process.**

12 As recounted above, the government paroled Mr. Mohammadi into the
13 United States through the Operation Allies Welcome to allow him to apply for
14 asylum. But when ICE detained Mr. Mohammadi on November 28 2025, it did
15 not say whether it was revoking his parole or not. Either way, the government's
16 actions violate the Administrative Procedures Act and Due Process.

17 **1. The government's actions violated the Administrative**
18 **Procedures Act.**

19 Under the Administrative Procedures Act (APA), an agency action may be
20 held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or
21 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an
22 abuse of discretion if the agency "entirely failed to consider an important aspect
23 of the problem, offered an explanation for its decision that runs counter to the
24 evidence before the agency, or is so implausible that it could not be ascribed to a
25 difference in view or the product of agency expertise." *Nat'l Ass'n of Home*
26 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*
27 *Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
28 (1983)). For a challenged agency action to be upheld, the agency "must explain
the evidence which is available, and must offer a rational connection between the
facts found and the choice made." *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)

1 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*
2 *States*, 371 U.S. 156, 168 (1962)).

3 Here, regardless of whether the agency formally revoked Mr.
4 Mohammadi’s parole or not, it violated the APA. If the agency did *not* revoke his
5 parole, then it inexplicably violated its own parole decision by detaining Mr.
6 Mohammadi in November 2025. Doing so violated the APA because the agency
7 did not “offer a rational connection between the facts found and the choice
8 made”—i.e., the fact that Mr. Mohammadi was still at liberty, waiting on his
9 asylum claim determination, yet the agency decided to detain him. *Motor Vehicle*
10 *Mfrs*, 463 U.S. at 52. And nothing suggests that there *was* a “rational” reason for
11 this choice, given that Mr. Mohammadi had filed an asylum application, complied
12 with all the conditions of his parole, and had no criminal history. This was the
13 epitome of an “arbitrary” and “capricious” act under the APA. 5 U.S.C. §
14 706(2)(A).

15 But assuming the agency *had* revoked his parole, it also violated the APA.
16 As explained, a person shall only be “returned to the custody from which he was
17 paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.
18 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be
19 terminated “upon accomplishment of the purpose for which parole was
20 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at *12 (same). Alternatively, the
21 regulations permit revocation of parole when “neither humanitarian reasons nor
22 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.
23 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon
24 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the
25 regulations, the agency may only revoke parole and re-detain a noncitizen when
26 the parole’s purpose is served or no humanitarian reasons warrant it *and* the
27 noncitizen receives written notice.

28

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

12 That is precisely what Judge Curiel concluded in *Noori*, 2025 WL 2800149,
13 at *13. Relying on the same authority cited above, *Noori* concluded that “to meet
14 statutory and regulatory requirements, revocation should only occur when (1) the
15 parole’s purpose is served or (2) when humanitarian reasons and public benefit
16 are no longer warranted, and the noncitizen is provided written notice.” *Id.* The
17 first requirement was not met because the petitioner “applied for asylum and was
18 still in the middle of those proceedings when Respondents issued and executed
19 the revocation.” *Id.* And even though the petitioner was provided a “generic
20 notification” of his revocation, the second requirement was not met because
21 “humanitarian reasons still warrant the Petitioner’s presence in the country.” *Id.*
22 At a minimum, Judge Curiel held, parole revocation “requires an individualized
23 determination,” which the government had not provided because it failed to
24 explain “why the Petitioner would now be considered a flight risk or danger to the
25 community.” *Id.*

26 Here, as in *Noori*, the government failed to meet the statutory and
27 regulatory requirements for parole revocation. In fact, the government here did
28 not even provide Mr. Mohammadi a “generic notification” of revocation, as it did

1 in *Noori. Id.* Thus, the government here “has acted arbitrarily and capriciously in
2 violation of the APA.” *Id.*

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

4 Not only did the government’s effective revocation of parole violate the
5 APA, it also violated procedural due process. The Fifth Amendment guarantees
6 that “[n]o person shall be ... deprived of life, liberty, or property, without due
7 process of law.” U.S. Const. amend. V. To determine a violation of procedural
8 due process, courts weigh the traditional factors of (1) the private interest at issue,
9 (2) the risk of erroneous deprivation of that interest through the procedures used,
10 and (3) the government’s interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35
11 (1976). Here, these factors easily weigh in Mr. Mohammadi’s favor.

12 First, the private interest at issue is Mr. Mohammadi’s deprivation of
13 liberty—i.e., remaining on parole, rather than being detained. *See Morrissey v.*
14 *Brewer*, 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690
15 (2001) (“Freedom from imprisonment—from government custody, detention, or
16 other forms of physical restraint—lies at the heart of the liberty that [the Due
17 Process] Clause protects.”). Not only is Mr. Mohammadi’s general liberty interest
18 substantial, he has an added interest in remaining out of custody so he can work
19 with his attorney to prepare his asylum case. What’s more, Mr. Mohammadi’s
20 work authorization is contingent on his asylum application status, and revocation
21 of his petition will directly impact his ability to provide for himself and his
22 family. Thus, the first factor weighs heavily in Mr. Mohammadi’s favor.

23 Second, the procedures the agency used to determine whether to revoke
24 Mr. Mohammadi’s parole presented a high risk of erroneous deprivation of
25 liberty. To date, the agency’s actions surrounding Mr. Mohammadi’s parole have
26 completely failed to comply with the statute, the regulations, and even the
27 agency’s own decision. After granting Mr. Mohammadi humanitarian parole in
28 August 2021, the agency inexplicably deprived him of his liberty. It did so even

1 though Mr. Mohammadi had attended all his check-in appointments, had no
2 criminal history, and had timely filed an asylum application. The agency did not
3 claim that “the purposes of such parole . . . have been served,” 8 U.S.C. §
4 1182(d)(5)(A), nor that the “humanitarian reasons” for his parole no longer
5 existed, 8 C.F.R. § 212.5(e)(2)(i). Because consideration of any of these factors
6 should have led to a different result, the risk of erroneous deprivation of Mr.
7 Mohammadi’s parole without these procedures was high, and this factor weighs
8 heavily in his favor.

9 Finally, any government interest in revoking Mr. Mohammadi’s parole is
10 minimal. Mr. Mohammadi has complied with all his check-in requirements, has
11 no criminal history, has timely applied for asylum, and does not represent a
12 danger or a flight risk. All the government need do is comply with its *own*
13 *decision* to grant Mr. Mohammadi. Thus, the *Mathews v. Eldrige* factors weigh
14 heavily in Mr. Mohammadi’s favor, and his revocation of parole violates
15 procedural due process.

16 **B. Terminating Mr. Mohammadi’s USCIS asylum proceedings**
17 **violated the Administrative Procedures Act and Due Process.**

18 For similar reasons, the agency’s termination of Mr. Mohammadi’s
19 affirmative asylum process before USCIS violated both the APA and procedural
20 due process.

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

22 As with its revocation of parole, the government’s termination of
23 Mr. Mohammadi’s affirmative asylum proceedings before USCIS was “arbitrary”
24 and “capricious” under the APA. 5 U.S.C. § 706(2)(A). Mr. Mohammadi’s
25 humanitarian parole permitted Mr. Mohammadi to pursue a more non-adversarial
26 route to asylum through USCIS. *See Barahona-Gomez v. Reno*, 236 F.3d at 1120.

27 But four years later—when Mr. Mohammadi had filed an asylum
28 application with USCIS and was still in full compliance with his parole

1 conditions—the agency inexplicably changed its mind. It appears to have done so
2 only because of Mr. Mohammadi’s random (but entirely lawful) delivery to Camp
3 Pendleton and the military’s interrogation and detention of him. Indeed, the
4 agency did not create a warrant for Mr. Mohammadi’s arrest. In other words, the
5 agency’s decision to terminate Mr. Mohammadi’s USCIS asylum proceedings and
6 issue a new Notice to Appear seems to have occurred solely as a result of Camp
7 Pendleton’s decision to detain him and turn him over to ICE.

8 This was “arbitrary” and “capricious.” 5 U.S.C. § 706(2)(A). To uphold its
9 decision, the agency “must explain the evidence which is available, and must
10 offer a rational connection between the facts found and the choice made.” *Motor*
11 *Vehicle Mfrs*, 463 U.S. at 52. Here, the “available evidence” shows that USCIS
12 was adjudicating Mr. Mohammadi’s timely-filed asylum application. ECF 1
13 Exhibit A, Asylum Receipt. Yet with no explanation or reasons, the agency
14 terminated his USCIS proceedings and put him in proceedings before an
15 immigration judge. Looking at this “available evidence,” the agency cannot offer
16 any “rational connection between the facts found and the choice made.” *Motor*
17 *Vehicle Mfrs*, 463 U.S. at 52. Nothing in Mr. Mohammadi’s lawful delivery to
18 Camp Pendleton and his unjustified arrest provides a motive for terminating his
19 USCIS asylum proceedings. Thus, the government’s actions violated the APA.

20 **1. The government’s actions violated procedural due process.**

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

24 First, Mr. Mohammadi’s interest in applying for asylum through USCIS is
25 high. As explained, in an affirmative asylum adjudication, an asylum officer
26 “meets informally with the applicant, considers the documents presented with the
27 asylum application, then decides whether asylum should be granted.” *Barahona-*
28 *Gomez v. Reno*, 236 F.3d at 1120. Importantly for asylum seekers who are fearful

1 or have experienced trauma, “[t]he asylum officer shall conduct the interview in a
2 nonadversarial manner and, except at the request of the applicant, separate and
3 apart from the general public.” 8 C.F.R. § 208.9(b). If asylum is denied, the case
4 will be “referred to an [immigration judge] for formal adjudication,” thereby
5 giving the individual two bites at the apple. *Barahona-Gomez v. Reno*, 236 F.3d at
6 1120. What’s more, the USCIS process allows Mr. Mohammadi to obtain work
7 authorization and avoid the mandatory detention that would likely occur in
8 removal proceedings under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
9 2025). Thus, the first factor weighs heavily in Mr. Mohammadi’s favor.

10 Second, the “procedures used” to determine whether to terminate
11 Mr. Mohammadi’s USCIS asylum proceedings presented a high risk of the
12 erroneous deprivation of that interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–
13 35. Frankly, the agency did not appear to use *any* “procedures” to make this
14 decision. All it did was respond to Camp Pendleton’s unjustified and unlawful
15 detention of Mr. Mohammadi by taking him into custody and issuing a new
16 Notice to Appear. The agency provided no explanation for its decision to
17 terminate USCIS proceedings, nor could it, since Mr. Mohammadi had filed a
18 timely asylum application, complied with all his check-in appointments, and
19 engaged in no criminal activity. Thus, the second factor also weighs heavily in
20 Mr. Mohammadi’s favor.

21 Finally, the government’s interest is negligible. Absent evidence that
22 Mr. Mohammadi poses any danger or threat to society, the government has no
23 reason to try to bypass the USCIS asylum process. If Mr. Mohammadi’s
24 application is denied, the government can then place him in removal proceedings.
25 So the only “risk” to the government is that Mr. Mohammadi will spend some
26 time out of detention lawfully employed before being put in removal proceedings.
27 Given the minimal burden this places on the government, combined with Mr.
28 Mohammadi’s weighty interests on the first two factors, the *Mathews v. Eldridge*

1 factors lean heavily in his favor. Accordingly, this Court should find that the
2 government's termination of his USCIS affirmative asylum proceedings violated
3 due process.

4 **Conclusion**

5 Because this Court has jurisdiction to consider Mr. Mohammadi's claims,
6 and because these claims succeed on the merits, this Court should GRANT the
7 habeas

8 Petition and ORDER

- 9 1. Mr. Mohammadi's immediate release;
- 10 2. Prohibit his re-detention without further order of this court;
- 11 3. Prohibit his removal from this district;
- 12 4. Reinstate his affirmative application with USCIS;
- 13 5. Award counsel attorney fees;
- 14 6. And any other relief the court deems appropriate.

15 Respectfully submitted,

16
17 Dated: December 15, 2025

/s/Brian J. McGoldrick

18 Brian J. McGoldrick, Esq.
19 *Pro Bono* Counsel for Petitioner
20
21
22
23
24
25
26
27
28

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

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 December 16, 2025, I served a copy of this Reply to Response and Declaration of Ramudin Mohammadi by the method and to the parties listed below:

On December 16, 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:

- **Janet A Cabral**
Janet.Cabral@usdoj.gov,mary.wiggins@usdoj.gov,efile.dkt.civ@usdoj.gov,USACAS.Habeas2241@usdoj.gov,caseview.ecf@usdoj.gov
- **Erin Dimbleby**
erin.dimbleby@usdoj.gov,brenda.seyler@usdoj.gov,caseview.ecf@usdoj.gov,Efile.dkt.civ@usdoj.gov
- **Robbin O. Lee**
robbin.lee@usdoj.gov,ivette.moshe@usdoj.gov,Efile.dkt.civ@usdoj.gov

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