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7
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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 RAMUDIN MOHAMMADI,
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Case No.: 3:25-cv-03450-JES-BJW

Petitioner,

v.

SUPPLEMENTAL BRIEFING BY
PETITIONER

CHRISTOPHER LAROSE, warden of
Otay Mesa Detention Center
DANIEL A. BRIGHTMAN, San Diego
Field Office Director, Immigration and
Customs Enforcement and Removal
Operations (“ICE/ERO”);
TODD LYONS, Acting Director of
Immigration Customs Enforcement
 (“ICE”);
KRISTI NOEM, Secretary of the
Department of Homeland Security
 (“DHS”);
PAMELA BONDI, Attorney General of
the United States,
U.S. DEPARTMENT OF HOMELAND
SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;
Respondents.

1 This court has asked the parties to provide supplemental briefing on the issue
2 of parole. The Respondent's declaration sets out that Mr. Mohammadi entered the
3 United States on August 28, 2021 and was granted humanitarian parole. This parole
4 expired on August 27, 2025. ECF 8-1 p. 2. Based on this declaration, the Petitioner
5 does not dispute that his parole had expired by the date he was apprehended by the
6 Military Police on November 28, 2025. The government contends that this is the
7 basis for his detention. However, the government still has not answered the claim
8 that the process employed on November 28, 2025 was lawful or whether the process
9 employed was a violation of their own procedures and thus a violation of the
10 Administrative Procedures Act.

11 **THE DETENTION ON NOVEMBER 28, 2025 WAS A VIOLATION**
12 **OF DUE PROCESS**

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

26 Mr. Mohammadi had been living in the United States for four years. He
27 developed ties to the community and had been working most of the time. He had
28 also filed an affirmative asylum case with USCIS. He had attended two interviews

1 with the asylum office and was awaiting a final determination on whether he
2 would be granted asylum. The acknowledgement of receipt that every affirmative
3 applicant receives says in paragraph 2 “You may remain in the United States until
4 your application is decided.” Whether Mr. Mohammadi’s parole had expired or
5 not, he was not unlawfully present in the United States.

6 The agency’s termination of Mr. Mohammadi’s affirmative asylum process
7 violated the Administrative Procedures Act and procedural due process because
8 the agency provided no notice, explanation, or reasons for its decision. Nor can it,
9 because Mr. Mohammadi complied with all the agency’s requirements by
10 attending all his check-in appointments, submitting a timely asylum application,
11 and committing no crimes. Mr. Mohammadi was paroled into the United States
12 and allowed to affirmatively apply for asylum through USCIS.

13 When Mr. Mohammadi presented himself at the Dulles port of entry on
14 August 28, 2021, he was granted “OAR” humanitarian parole under 8 U.S.C. §
15 1182(d)(5) and issued an I-94 that permitted them to remain in the United States
16 until the purpose of his admission was accomplished. Mr. Mohammadi was able
17 to file an affirmative asylum claim with USCIS on January 17, 2023. See ECF 1-
18 2, Notice of Asylum Interview.

19 Mr. Mohammadi’s parole allowed him to file his asylum application
20 “affirmatively” through the United States Citizenship and Immigration Services
21 (USCIS), rather than “defensively” through removal proceedings. During this
22 affirmative asylum process, an asylum officer “meets informally with the
23 applicant, considers the documents presented with the asylum application, then
24 decides whether asylum should be granted or whether the matter should be
25 referred to an [immigration judge] for formal adjudication.” *Barahona-Gomez v.*
26 *Reno*, 236 F.3d 1115, 1120 (9th Cir. 2001) (citing 8 C.F.R. § 208.2(a);
27 § 208.14(b)(2)). So, individuals who file affirmatively through USCIS are not
28

1 detained, go through a non-adversarial interview process, and are able to obtain
2 work authorization. *See* 8 C.F.R. § 208.7(a)(1); 8 C.F.R. § 274a.12(c)(11).

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

10 Mr. Mohammadi has a liberty interest based on his years of living and
11 working in the United States. Whether his parole had been expired, he still had
12 due process rights that needed to be met before his liberty could be taken from
13 him.

14 The Fifth Amendment guarantees that “[n]o person shall be ... deprived of
15 life, liberty, or property, without due process of law.” U.S. Const. amend. V.
16 Though noncitizens do not enjoy constitutional protections outside our borders,
17 once a noncitizen “enters the country, the legal circumstance changes, for the Due
18 Process Clause applies to all ‘persons’ within the United States, including aliens,
19 whether their presence here is lawful, unlawful, temporary, or permanent.”
20 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Under this wide umbrella, “[i]t is
21 well established that the Fifth Amendment entitles aliens to due process of law in
22 deportation proceedings.” *Reno v. Flores*, 507 U.S. 292, 306 (1993).

23 Here, Petitioner has “passed through our gates” and “may be expelled only
24 after proceedings conforming to traditional standards of fairness encompassed in
25 due process of law.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206,
26 212 (1953). Because Petitioner has developed an interest in remaining during his
27 time here, “the procedures used to remove [him] must adequately protect” that
28 interest. *Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL

1 2494908, at *10 (D.D.C. Aug. 29, 2025).

2 At a minimum, the petitioner should have been given notice and hearing as
3 to what change had taken place such that he was now considered a flight risk or a
4 danger to the community. This did not happen in this case. Mr. Mohammadi was
5 detained by the military police on Camp Pendleton simply because he is an
6 immigrant that met the administration's criteria to detain and deport as many
7 people as possible.

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

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

18 Eventually, ICE officials arrived. They did not have a warrant for his arrest.
19 They did not explain what law he had violated. They did not allege that he had
20 violated the conditions of his parole or that his parole was expired. Instead, they
21 handcuffed Mr. Mohammadi and transported him to the ICE facility in downtown
22 San Diego before eventually taking him to the Otay Mesa Detention Center.

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

27 The government paroled Mr. Mohammadi into the United States through
28 OAR to allow him to apply for asylum. The government never claimed before his

1 detention that the purpose for his entry into the United States had been completed,
2 namely, getting asylum granted.

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

12 Here, neither occurred. Mr. Mohammadi was paroled into the United States
13 to apply for asylum, and “the purposes of such parole” have not yet “been served”
14 because his asylum claim has not been adjudicated through either through an
15 affirmative or a defensive proceeding. 8 U.S.C. § 1182(d)(5)(A).

16 The Fifth Amendment guarantees that “[n]o person shall be ... deprived of
17 life, liberty, or property, without due process of law.” U.S. Const. amend. V. To
18 determine a violation of procedural due process, courts weigh the traditional
19 factors of (1) the private interest at issue, (2) the risk of erroneous deprivation of
20 that interest through the procedures used, and (3) the government’s interest.
21 *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). Here, these factors easily
22 weigh in Mr. Mohammadi’s favor.

23 First, the private interest at issue is Mr. Mohammadi’s deprivation of
24 liberty—i.e., remaining at liberty, rather than being detained. *See Morrissey v.*
25 *Brewer*, 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690
26 (2001) (“Freedom from imprisonment—from government custody, detention, or
27 other forms of physical restraint—lies at the heart of the liberty that [the Due
28 Process] Clause protects.”). Not only is Mr. Mohammadi’s general liberty interest

1 substantial, he has an added interest in remaining out of custody so he can work
2 with his attorney to prepare his asylum case. What’s more, Mr. Mohammadi’s
3 work authorization is contingent on his asylum application status, and revocation
4 of his petition will directly impact his ability to provide for himself and his
5 family. Thus, the first factor weighs heavily in Mr. Mohammadi’s favor.

6 Second, the procedures the agency used to determine whether to detain
7 Mr. Mohammadi presented a high risk of erroneous deprivation of liberty. To
8 date, the agency’s actions surrounding Mr. Mohammadi’s liberty have completely
9 failed to comply with the statute, the regulations, and even the agency’s own
10 decision. After granting Mr. Mohammadi humanitarian parole in August 2021,
11 the agency inexplicably deprived him of his liberty. It did so even though Mr.
12 Mohammadi had attended all his check-in appointments, had no criminal history,
13 and had timely filed an asylum application. The agency did not claim that “the
14 purposes of such parole . . . have been served,” 8 U.S.C. § 1182(d)(5)(A), nor that
15 the “humanitarian reasons” for his parole no longer existed, 8 C.F.R. §
16 212.5(e)(2)(i). Because consideration of any of these factors should have led to a
17 different result, the risk of erroneous deprivation of Mr. Mohammadi’s parole
18 without these procedures was high, and this factor weighs heavily in his favor.

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

26 Finally, the Petitioner contends the issues in his petition are not moot.
27 While the petitioner is thankful that a bond hearing may bring an end to his
28 detention, he still is being forced to pay a ransom to be released from a detention

1 that he contends was unlawful. The government has never provided any evidence
2 to support their belief that his four years of liberty should be summarily ended and
3 he should spend the rest of his asylum process locked up. He is clearly NOT a
4 flight risk. He has lived here for four years without incident. He is not a danger to
5 the community. He believes the appropriate remedy here is a finding that his
6 arrest and detention were unlawful and he should be immediately released.

7 **Conclusion**

8 Because this Court has jurisdiction to consider Mr. Mohammadi's claims,
9 and because these claims succeed on the merits, this Court should GRANT the
10 habeas Petition and ORDER

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

17 Respectfully submitted,

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19 Dated: January 2, 2026

/s/Brian J. McGoldrick

Brian J. McGoldrick, Esq.
Pro Bono Counsel for Petitioner

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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 January 2, 2026, I served a copy of this Reply to Response and Declaration of Ramudin Mohammadi by the method and to the parties listed below:

On January 2, 2026, 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**
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/s/Brian J. McGoldrick
Brian J. McGoldrick, Esq.
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