


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

VASYL MYKHAILIUK)
(A ))
)
Petitioner,)
)
v.)
)
KRISTI NOEM, Secretary, U.S. Department)
of Homeland Security; MARY DE ANDA-YBARRA))
Field Office Director, El Paso Field Office,)
Immigration and Customs Enforcement,)
)
Respondents.)

Case No. 3:25-cv-696

**PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF**

The Petitioner, VASYL MYKHAILIUK, by and through his own and proper person and through his attorney, KHIABETT OSUNA, of KRIEZELMAN BURTON & ASSOCIATES, LLC, hereby petition this Honorable Court to issue a Writ of Habeas Corpus to review his unlawful detention during his pending removal proceedings, in violation of his constitutional and statutory rights.

Introduction

1. Petitioner is presently being detained by U.S. Immigration and Customs Enforcement (“ICE”) at El Paso Camp East Montana located in El Paso, Texas.
2. Petitioner is a native and citizen of Ukraine. He was paroled into the United States on May 10, 2024 under the “Uniting for Ukraine” (“U4U”) program. Petitioner was issued a Form I-94, stating that his class of admission, UHP, was valid until May 9, 2026.
3. Petitioner’s detention is a substantial deprivation and burden that puts Petitioner at risk.

4. Petitioner is currently scheduled for a preliminary hearing before the El Paso Immigration Court on January 29, 2026 before Immigration Judge Ruhle.
5. Petitioner was scheduled for a bond hearing on November 26, 2025, but the Immigration Judge denied the motion, stating that he did not have jurisdiction to hear the bond motion.
6. Petitioner filed a Motion to Terminate Proceedings, as he is still present in the U.S. with a valid parole document. On December 3, 2025, the Immigration Judge denied Petitioner's motion.
7. Petitioner's detention became unlawful on October 17, 2025, when he was detained by Immigration and Customs Enforcement (ICE). His continued detention is an unlawful violation of due process and incorrect interpretation of immigration law.
8. Respondents did not present Petitioner with any evidence that his parole, granted on May 10, 2024, had been terminated or revoked, let alone any evidence to support its revocation when they arrested him.
9. Petitioner respectfully asks this Court to issue a temporary restraining order directing Respondents to conduct a bond hearing to ensure his due process rights and his ability to be reunited with his family and friends.
10. In the alternative, Petitioner respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

Jurisdiction and Venue

11. The action arises under the Constitution of the United States, the Immigration and Nationality Act of 1952, as amended ("INA"), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*
12. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241, and Article I,

section 9, clause 2 of the United States Constitution (the “Suspension Clause”), as Petitioner is presently subject to immediate detention and custody under color of authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

13. This action is brought to compel the Respondents, officers of the United States, to accord Petitioner the due process of law to which he is entitled under the Fifth and Fourteenth Amendments of the United States Constitution.

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgments Act, 28 U.S.C. § 2201 *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1361 (mandamus), and the All Writs Act, 28 USC § 1651.

15. Venue is proper in the Western District of Texas because Petitioner is presently detained by Respondents at El Paso Camp East Montana – which is located within the Western District. 28 U.S.C. § 1391(b), (e)(1).

Parties

16. Petitioner VASYL MYKHAILIUK is a native and citizen of Ukraine. Petitioner is presently detained at El Paso Camp East Montana, located in El Paso, Texas.

17. Respondent KRISTI NOEM is being in her official capacity only. Pursuant to the Homeland Security Act of 2002, Pub. L. 107-296, Defendant NOEM, through her delegates, has broad authority over the operation and enforcement of the immigration laws.

18. Respondent MARY DE ANDA-YBARRA is being sued in her official capacity only, as the Field Office Director of the El Paso Field Office of ICE. As such, she is charged with the detention and removal of aliens which fall under the jurisdiction of the El Paso Field Office and is considered Petitioner’s immediate custodian.

Custody

19. Petitioner VASYL MYKHAILIUK is being unlawfully detained by ICE and he is not likely to be removed in the reasonably foreseeable future.

Factual and Procedural Background

20. Petitioner VASYL MYKHAILIUK is a native and citizen of Ukraine.
21. Petitioner last entered the United States on May 10, 2024 under the Uniting for Ukraine (“U4U”) program. *See* Exhibit A.
22. Petitioner received a stamp on his passport marked as “U4U” and stated he was paroled until May 9, 2026. *Id.* He has not left the United States since then.
23. Petitioner similarly received an I-94, noting his “Class of Admission” as “UHP” with admission until May 9, 2026. *See* Exhibit B.
24. Petitioner’s parole is valid for two years from the date of issuance.
25. Petitioner has not received a termination letter of his parole status.
26. Petitioner is a throat cancer survivor. *See* Exhibit C.
27. Petitioner has no criminal history in the United States.
28. Petitioner was placed in immigration removal proceedings after he was detained by ICE/ERO officers. He has a hearing scheduled for January 29, 2026 before the El Paso Immigration Court.
29. On October , 2025, Petitioner was detained by ICE/ERO officials while he was working laying concrete in Waukegan, Illinois. While the circumstances regarding his detention are unclear, Petitioner does not have a criminal record.
30. Petitioner is presently detained in El Paso, Texas at East Montana Camp.
31. Petitioner’s detention became unlawful on October 17, 2025, when he was detained by Immigration and Customs Enforcement (ICE). His continued detention is an unlawful

violation of due process and incorrect interpretation of immigration law.

32. Petitioner was scheduled for a bond hearing on November 26, 2025, but the Immigration Judge denied the motion, stating that he did not have jurisdiction to hear the bond motion. *See* Exhibit D.
33. Petitioner filed a Motion to Terminate Proceedings, as he is still present in the U.S. with a valid parole document. On December 3, 2025, the Immigration Judge denied Petitioner's motion, stating that he had not met his burden and that no good cause had been shown. *See* Exhibit E.
34. Prior to his detention, Petitioner worked in order to provide for himself and his elderly mother in Ukraine.
35. Petitioner's continued detention prohibits him from being able to financially provide for himself and his family, and inhibits his removal defense in many ways, including by making it difficult to communicate with witnesses, gathering evidence, and afford legal representation, among other related harm.
36. Moreover, Petitioner continues to hold valid U4U status, which remains valid throughout his period of detention as Respondent's have yet to revoke his parole.

37. Since the September 5, 2025 BIA decision, Respondents have increased their enforcement efforts and have detained individuals in the Midwest, including Petitioner, without providing them an opportunity to challenge their detention. As a result, Petitioner is now detained away from his community, counsel, and support system and continues to be subjected to the aforementioned harms.
38. Despite having previously had the opportunity to seek a request for bond redetermination and release from custody prior to September 5, 2025, Petitioner now must remain detained several states away from his family, counsel, and support system and continues to be subjected to the aforementioned harms.
39. Because Respondent's removal proceedings remain pending and he does not have a hearing scheduled until late January 2026, there is little likelihood that Petitioner's removal will occur in the reasonably foreseeable future.
40. Moreover, Petitioner's requests to either be released on bond or have his proceedings terminated as he is still in U4U status have been futile, indicating that there is little likelihood that his removal will occur in the reasonably foreseeable future.

Legal Framework

Due Process Clause

41. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

42. In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.
43. “The fundamental requirement of due process is the opportunity be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In this case, to determine the due process to be afforded to Petitioner, the Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government’s interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

Humanitarian Parole and Recent Detention

44. As a threshold matter, the specific issues related to humanitarian parole and detention, have recently been reached by the Western District of Kentucky at least twice, as well as several other courts in the Sixth Circuit, and other non-binding, yet persuasive cases. *See Patel v. Tindall*, 2025 WL 2823607 *at 6 (W.D. Ky. Oct 3, 2025) (finding that “an individual who has been paroled without first having been placed in expedited removal cannot later be designated for expedited removal.”); *Perez Guerra v. Woosley*, 2025 WL 3046187 (W. D. Ky. Oct 31, 2025); *Rodriguez Martinez v. Raycraft et al.*, 2025 WL 3511093 (W.D. Mich. Dec. 8, 2025); *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123 (D. Or. 2025); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d

128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner’s motion for preliminary injunction and ordering that the petitioner be released); *see, e.g., Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner’s habeas petition and ordering that the petitioner be released from custody); *Loaiza Arias*, 2025 WL 3295385, at *2–4 (same); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025) (same); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025) (addressing this issue, and granting the petitioner’s request for a preliminary injunction and ordering the petitioner’s release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court’s grant of habeas relief to the petitioner and the court’s order to release the petitioner).

44. The statute and applicable regulations set out specific mandatory guidelines that dictate how the government can place a person into expedited removal proceedings, under 8 U.S.C. § 1225(b)(1), or into regular removal proceedings under 8 U.S.C. § 1229(a), upon arriving at a port of entry. Indeed, “noncitizens who arrive at a port of entry without a visa or other entry document, like Petitioner, are deemed ‘inadmissible’ under 8 U.S.C. § 1182(a)(7)” due to their lack of entry documents. *Id.* at 1132 & n.7 (noting that “[d]epending on the circumstances, other categories of inadmissibility may also apply, but § 1182(a)(7) applies for noncitizens without proper documentation”).

45. Once a noncitizen is deemed inadmissible, “the immigration officer must order the noncitizen’s removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)).
46. Further, section 1225(b)(2)(A) provides that “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.” 8 U.S.C. § 1225(b)(2)(A). However, “applicants for admission may be temporarily released on parole [into the United States] ‘for urgent humanitarian reasons or significant public benefit,’” as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined “on a case-by-case basis.” 8 U.S.C. § 1182(d)(5)(A).
47. Then, “when the purpose of the parole has been served,” section 1182(d)(5)(A) provides that “the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).
48. The process to terminate a previously granted parole is also captured in the regulations and applicable statutes. Pursuant to 8 C.F.R. § 212.5(e)(2)(i), which governs the “[t]ermination of parole,”

In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that

he or she had at the time of parole.

8 C.F.R. § 212.5(e)(2)(i). In other words, parole can only be terminated if the purpose of parole is either accomplished, or humanitarian reasons and the public benefit no longer warrant parole.” *Rodriguez Martinez v. Raycraft et al.*, 1:25-cv-1504 at 8 (W.D. Mich. Dec. 8, 2025) (citing *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e))).

49. Respondents have failed to follow the applicable statutory and regulatory framework necessary to terminate Petitioner’s parole.
50. At the time of Petitioner’s detention, Respondents did not provide any notice or explanation about Petitioner’s parole revocation and the circumstances at play do not indicate that the humanitarian reason or public benefit that provided justification for Petitioner to be paroled into the country no longer exists or applies.
51. Several district courts nationwide have further explained that similar to how grant of parole requires an individualized review, revocation of parole also requires a case-by-case assessment to comply with the statute. *See Mata Velasquez*, 794 F. Supp. 3d at 146; *Y-Z-L-H*, 792 F. Supp. 3d at 1137–47; *Loaiza Arias*, 2025 WL 3295385, at *2–4; *Noori*, 2025 WL 2800149, at *10–13; *Munoz Materano*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17; *Gabriel B.M.*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7; *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3.
52. Respondents did not present any evidence to Petitioner when he was detained regarding their case-by-case determination regarding the specific revocation of his parole. Indeed, Petitioner appears to have been a collateral arrest as part of *Operation*

Midway Blitz, without any case-by-case determination.

53. Respondents failed to follow the requirements under the law to revoke Petitioner's parole and as such they lacked the authority to arrest and detain her, unless there was another reason to arrest her. *See Mata Velasquez*, 794 F. Supp. 3d at 145; *cf. Norfolk S. Ry. Co. v. U.S. Dep't of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.'" (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998))). Respondents had no other reason to arrest and detain Petitioner than her status as a noncitizen.

54. Petitioner has never been arrested or convicted of any crime.

55. Alternatively, even assuming, *arguendo*, that Respondents argue any noncitizen, regardless of whether they are already present and residing in the United States, is "an alien seeking admission" subject to mandatory detention under § 1225, several courts in this District have rejected this argument. *Cf., e.g., Leiva Garcia v. Noem*, No. EP-25-CV-00624-DB, 2025 WL 3645179 (W.D. Tex. Dec. 16, 2025); *Vasquez Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025); *Acosta de Perez v. Frink*, No. CV H-25-5357, 2025 WL 3626347 (S.D. Tex. Dec. 12, 2025); *Espinoza Andres v. Noem*, No. CV H-25-5128, 2025 WL

3458893 (S.D. Tex. Dec. 2, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); *Galmadez Martinez v. Noem*, No. SA-25-CV-01373-JKP, 2025 WL 3471575 (W.D. Tex. Nov. 26, 2025); *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025); *Morales Aguilar v. Bondi*, No. 5:25-CV-01453-JKP, 2025 WL 3471417 (W.D. Tex. Nov. 26, 2025); *Coulibaly v. Thompson*, No. 5:25-CV-1539-JKP, 2025 WL 3471573 (W.D. Tex. Nov. 25, 2025); *Guzman Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 WL 3471416 (W.D. Tex. Nov. 25, 2025).

56. In *Jennings v. Rodriguez*, the Supreme Court analyzed 8 U.S.C. section 1225 and 8 U.S.C. 1226. 583 U.S. at 287. The Court held that section 1225(b) “applies primarily to aliens seeking entry into the United States.” *Id.* at 297. Then, the Court noted that section 1226 “applies to aliens already present in the United States.” *Id.* at 303.

57. The Court specifically found that “Section 1226(a) creates a default rule for those aliens by permitting- but not requiring- the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond, ‘except as provided in subsection (c) of this section.’” (subsection pertains to aliens who fall into categories involving criminal offenses or terrorist activities). *Id.* at 303. “Federal regulations provide that alien detained under § 1226(a) receive bond hearings at the outset of detention.” *Id.* at 306; 8 C.F.R. § 236.1(d)(1), 1236.1(d)(1).

58. The Supreme Court’s analysis in *Jennings* demonstrates the difference between detention of arriving aliens who *are seeking* entry into the United States under section 1225 and the detention of those who are already present in the United States under section 1226.

59. The key phrase in § 1225 states that “[I]n 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[.]” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). In other words, mandatory detention applies when “the individual is: (1) an ‘applicant for admission’; (2) ‘seeking admission’; and (3) ‘not clearly and beyond a doubt entitled to be admitted.’” *Martinez*, 2025 WL 2084238, at *2.
60. The “seeking admission” language, “necessarily implies some sort of present tense action.” *Martinez*, 2025 WL 2084238, at *6; *see also Matter of M- D-C-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (“The use of the present progressive tense ‘arriving,’ rather than the past tense ‘arrived,’ implies some temporal or geographic limit”); *U.S. v. Wilson*, 503 U.S. 329, 333 (1992) (“Congress’ use of verb tense is significant in construing statutes.”).
61. In other words, the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation’s border or another point of entry. It does not apply to noncitizens “already present in the United States”—only § 1226 applies in those cases. *See Jennings*, 583 U.S. at 303.
62. When interpreting a statute, “every clause and word . . . should have meaning.” *United States ex rel. Polansky, M.D. v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (internal quotation marks and citation omitted). And “the words of the statute must be read in their context and with a view to their place in the overall statutory scheme.” *Gundy v. United States*, 588 U.S. 128, 141 (2019) (quotation omitted).
63. This Court is not required, and should not, give deference to the recent *Matter of Yajure Hurtado* decision. In *Loper Bright*, the Supreme Court was clear that “[c]ourts must exercise

their independent judgment in deciding whether an agency has acted within its statutory authority,” and indeed “may not defer to an agency interpretation of the law simply because a statute is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Rather, this Court can simply look to the Supreme Court’s own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens “seeking admission into the country”—i.e., new arrivals at a port of entry, and that this contrasts with § 1226, which applies to noncitizens “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

Claims for Relief

FIRST CAUSE OF ACTION

Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution

64. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.
65. The Due Process Clause asks whether the government’s deprivation of a person’s life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty.
66. The government’s detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen’s appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to his community and family.
67. The *Matter of Yajure Hurtado* decision wrongly interprets the Immigration and Nationality Act. While Petitioner’s case is tangentially related to *Matter of Yajure Hurtado*, this Court is not required to give deference to the Board of Immigration

Appeals. In *Loper Bright*, the Supreme Court was clear that “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority,” and indeed “may not defer to an agency interpretation of the law simply because a statute is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024).

68. Rather, this Court can simply look to the Supreme Court’s own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens “seeking admission into the country”—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). By keeping Petitioner detained today, his detention is unconstitutional as applied to him and in violation of his due process rights. Petitioner should have the opportunity to have a bond hearing before an Immigration Judge.
69. Petitioner is “experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, . . . lack of privacy, and, most fundamentally, the lack of freedom of movement.” See *Günaydin*, 784 F. Supp. 3d at 1187.
70. For these reasons, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

Violation of the Immigration and Nationality Act

71. Petitioner repeats and incorporates by reference all allegations above as though fully set forth fully herein.
72. Petitioner has been detained and will not be afforded the opportunity to challenge any termination of his parole before the immigration court.

73. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As this Court held in *Patel v. Tindall*, “an individual who has been paroled without first having been placed in expedited removal cannot later be designated for expedited removal.” 2025 WL 2823607 (W.D. Ky, Oct 3, 2025); *see also Perez Guerra v. Woosley*, 2025 WL 3046187 (W. D. Ky. Oct 31, 2025); *Rodriguez Martinez v. Raycraft et al.*, 2025 WL 3511093 (W.D. Mich. Dec. 8, 2025).
Petitioner was properly placed under full removal proceedings under section 1226.

74. The unlawful application of § 1225(b)(2) to Petitioner violates the INA.

Prayer for Relief

WHEREFORE, Petitioner respectfully request that this Honorable Court:

- A. Accept jurisdiction over this action;
- B. Order Respondents not to transfer Petitioner out of the Western District of Texas during the pendency of these proceedings to preserve jurisdiction and access to counsel;
- C. Declare that Respondents’ actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment and violates the Immigration and Nationality Act;
- D. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order Respondents to schedule a bond hearing for Petitioner’s removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order, or immediately release Respondent;
- E. Award reasonable attorneys’ fees and costs for this action; and
- F. Grant such further relief as the Court deems just and proper.

Dated: December 18, 2025

Respectfully Submitted,

/s/ Khiabett Osuna

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