The Honorable John H. Chun

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YAIR EDUARDO GRAJEDA VELAZQUEZ, Petitioner, v. LAURA HERMOSILLO,[1] *et al.*, Respondents.	Case No. 2:25-cv-02641-JHC FEDERAL RESPONDENTS' RETURN MEMORANDUM[2]

Petitioner Yair Eduardo Grajeda Velazquez is detained by United States Immigration and Customs Enforcement (ICE) pursuant to Section 235 of the Immigration and Nationality Act (INA) (8 U.S.C. § 1225(b)(1)), during the pendency of his removal proceedings.

I. FACTUAL BACKGROUND

Petitioner is a native and citizen of Mexico who arrived at the Brownsville, Texas, port of entry without a valid entry document or permit in May 2024. Hubbard Decl., ¶¶ 3-4. The Border Patrol issued a Notice to Appear to Petitioner, charging him with inadmissibility pursuant to INA § 212(a)(7)(A)(i)(I). Hubbard Decl., ¶ 4; Strong Decl., Ex A, Notice to Appear. Petitioner was

[1] Laura Hermosillo, Seattle Acting Field Office Director, Enforcement and Removal Operations is substituted for Cammilla Wamsley, pursuant to Fed. R. Civ. P. 25(d).

[2] Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

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subsequently released into the United States pending his immigration hearing in Seattle with instructions for Petitioner to report to the local ICE Enforcement and Removal Operations ("ERO") office when requested. Hubbard Decl., ¶ 5.

On or about January 30, 2025, Petitioner reported for an ERO check-in. Hubbard Decl., ¶ 6. On this day, Petitioner was enrolled in the Alternatives to Detention ("ATD") program for continued monitoring and reporting purposes while Petitioner proceed on the non-detained immigration docket.[3] Hubbard Decl., ¶ 6. From June 12 to November 27, 2025, however, Petitioner missed seven biometric check-ins in violation of his ATD enrollment. Hubbard Decl., ¶ 8; Strong Decl., Ex. B, Record of Deportable/Inadmissible Alien (documenting dates of missed check-ins). On December 15, 2025, Petitioner reported in person for an ERO check-in and was taken into custody due to his history of ATD violations. Hubbard Decl., ¶ 9; Strong Decl., Ex. C, Memorandum to File re: Cancellation of Form I-220A. He was then transferred to the Northwest ICE Processing Center in Tacoma. Hubbard Decl., ¶ 9. Petitioner remains detained under 8 U.S.C. § 1225(b) as an arriving noncitizen. Hubbard Decl., ¶ 11.

II. DETENTION AUTHORITIES

A. Expedited removal proceedings, mandatory detention, and temporary parole

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could "expedite removal of aliens lacking a legal basis to remain in the United States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) ("[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country."). Section 1225 applies to "applicants for admission" to the United States, who are defined as "alien[s] present in

[3] On May 27, 2025, Petitioner filed an application for relief with the immigration court. Hubbard Decl., ¶ 7.

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the United States who [have] not been admitted" or noncitizens "who arrive[] in the United States," whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)," both of which are subject to mandatory detention. *Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018).

Expedited removal proceedings under Section 1225(b)(1) include additional procedures if a noncitizen indicates an intention to apply for asylum or expresses a fear of persecution, torture, or return to the noncitizen's country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). If the asylum officer or immigration judge does not find a credible fear, the noncitizen is "removed from the United States without further hearing or review." 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum officer or immigration judge finds a credible fear, the noncitizen is generally placed in full removal proceedings under 8 U.S.C. § 1229a, but he or she remains subject to mandatory detention. *See* 8 C.F.R. § 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

The sole means of release is "temporary parole from § 1225(b) detention 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings*, 583 U.S. at 283. This parole terminates automatically at the expiration of the time for which parole was authorized, or upon service of a charging document for either expedited removal proceedings under § 1225(b) or removal proceedings under § 1229a. 8 C.F.R. §§ 212.5(e)(1); (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time of parole. *See id.*

B. Revocation of discretionary release from detention

"Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien … provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). In turn, 8 C.F.R. § 1236.1(c)(9) provides for the

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revocation of such release: "When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign), in which event the alien may be taken into physical custody and detained."

There is no statutory or regulatory requirement for a hearing before an individual is re-detained, and the Supreme Court has warned courts against reading additional procedural requirements into the Immigration and Nationality Act. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6) because "reviewing courts . . . are generally not free to impose [additional procedural rights] if the agencies have not chosen to grant them") (quoting *Vermont Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)). Furthermore, the Department of Homeland Security is not restricted from re-arresting noncitizens absent a change in circumstance. *See Matter of Sugay*, 17 I&N. Dec. 637, 640 (BIA 1981); *see also Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017). ("[T]he district court never held that *Sugay* requires these hearings."). Other courts have recognized that *Sugay*'s dicta is not "binding on ICE." *Bermudez Paiz v. Decker*, No. 18-4759, 2018 WL 6928794, at *16 n.19 (S.D.N.Y. Dec. 27, 2018).

Federal Respondents acknowledge that district courts have recently decided that the revocation of release requires a pre-detention hearing to determine if that noncitizen is a flight risk or a danger to the community. *See, e.g., E.A.T.-B. v. Wamsley*, No. 25-1192-KKE, 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025). Respectfully, these decisions erroneously conflate 8 C.F.R. § 1236.1(c)(9) and 8 C.F.R. § 1236.1(c)(8). *See id.* (imposing a determination set forth in Section (c)(8) into the discretionary determination of revoking an Order of Supervision in section

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(c)(9)). Both sections provide that the decisions to release or revoke are discretionary. But Section 1231(c)(8) includes language requiring the officer to decide that the alien "would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." In contrast, Section 1231(c)(9) does not require such a determination and specifically provides that "release may be revoked at any time."

III. CONCLUSION

In further response to Dkt. 3, Federal Respondents do not believe that an evidentiary hearing is necessary.

DATED this 5th day of January, 2026.

Respectfully submitted,

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I certify that this memorandum contains 1,203 words, in compliance with the Local Civil Rules.