

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

MURAD RABADANOV,)

Petitioner,)

v.)

KRISTI NOEM, et al.,)

Respondents.)

Case No. 1:25-cv-00286-H

PETITIONER'S REPLY IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF

The Petitioner, MURAD RABADANOV, by and through his own and proper person and through his attorneys, KRIEZELMAN BURTON & ASSOCIATES, LLC, files this reply memorandum to the government's response, and in support thereof, states as follows:

A. Petitioner is currently detained under 8 U.S.C. § 1226 and not under 8 U.S.C. § 1225.

By way of review, 8 U.S.C. § 1225(b)(2), INA § 235(b)(2), requires mandatory detention of "Applicants for Admission." Conversely, noncitizens detained under 8 U.S.C. § 1226(a), INA § 236(a), are not subject to mandatory detention and may be released on bond or on their own recognizance. Respondents argue in their response that Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) and not under 8 U.S.C. § 1226. This argument fails for several reasons.

First, district courts across the country have unanimously rejected this interpretation, in cases similar factually and procedurally to Petitioner. To start, while it is undisputed that in 2023, when Petitioner presented himself to a port of entry in California, he was an applicant for admission, this temporal "status" ended when he was paroled into the United States.

Respondents argue that since he presented himself at a port of entry and applied for admission in

2023, he remains an applicant for admission under 8 U.S.C. § 1225, even two years later.

However, their argument fails as they even admit and characterize Petitioner as a person who **entered** and was **paroled** into the interior (in past tense). Indeed, when the government decided that Petitioner should be paroled into the country in 2023, provided an “Admission I-94 Record Number,” which allowed him to remain out of mandatory custody, and pursue his asylum claim outside of custody, he was no longer an arriving alien or an applicant for admission.

Accordingly, the temporal limitation of the plain language of 8 U.S.C. § 1225 helps ensure that there is a distinction between people that are *currently* arriving aliens and applicants for admission at a port of entry as we speak, and not someone like Petitioner who has lived and contributed to his community for over two years and whose detention is now governed by 8 U.S.C. § 1226.

Second, when Petitioner presented himself at a port of entry in 2023, the government had the option to place Petitioner in expedited removal proceedings or, at minimum, detain him pursuant to § 1225 of the Immigration and Nationality Act (“INA”). Instead, in this case, the Petitioner scheduled an appointment on the government’s advertised CBP One app, waited his turn in line, presented himself at a port of entry, was processed for an NTA [Notice to Appear] and paroled into the U.S. pending a 240 hearing. Thus, the government chose to take Petitioner out of the mandatory detention category, pursuant to 8 U.S.C. § 1225 and into 8 U.S.C. § 1226, as a person already present into the United States. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). This distinction illustrates Petitioner is currently detained under 8 U.S.C. § 1226 and not under 8 U.S.C. § 1225.

In sum, Respondent’s evidence related specifically to Petitioner’s case supports Petitioner’s argument and any attempt to construe Petitioner’s past status as “arriving alien” and

as an “applicant for admission” in 2023 when he presented himself at a port of entry, as a continuing, present, and constant action is equivalent to arguing that an unannounced guest is still “arriving” after two years of living inside a house.

B. Petitioner’s parole status, even if terminated, support Petitioner’s request for this Court to grant his Habeas Petition.

Respondents argue that since Petitioner’s parole terminated, Petitioner’s argument regarding parole is futile. In *Coalition for Human Immigrant Rights v. Noem*, 2025 WL 2192986, at *30 (D.D.C. Aug. 1, 2025), the Court held that Section 1225 does not authorize expedited removal of individuals who have ever been paroled into the U.S. under either of its provisions. *Id.* at *30. The Court explained that “the only way to make sense of the statutory scheme that Congress created is to see that parolees fall under neither provision of Section 1225(b)(1). Any other result conflicts with other aspects of the statute and regulations, Congress’ evident purpose, and the ordinary meaning of the statutes’ words.” *Id.* at *25. The Court also found that 8 C.F.R. § 1.2, which defines “arriving alien” for purposes of §1225(b)(1)(A)(i) to include noncitizens “paroled pursuant to [8 U.S.C. Section 1182(d)(5)], and even after such parole is terminated or revoked” to be “*ultra vires* to the extent it subjects parolees to expedited removal”). *Munoz Materano v. Arteta*, 2025 WL 2630826, *11 (S.D.N.Y. Sept. 12, 2025). In *Munoz Materano*, the Court went on to explain that “treating all applicants for admission” as individuals “arriving in” the U.S. and “seeking admission” would negate the plainly present-tense construction of the latter phrases, violate statutory interpretation canons such as the rule against surplusage and the “meaningful-variation canon,” dramatically narrow the applicability of related and even recently amended INA statutes and “expand Section 1225(b) far beyond how it has been enforced historically....” *Id.* citing *Lopez-Benitez v. Francis*, 2025 WL2371588, at *6.

As noted above, Petitioner was originally paroled out of ICE detention and into the United States in 2023 at the border by a CBP agent, was given a Notice to Appear and placed in

removal proceedings. ICE then redetained Petitioner in November 2025 without a warrant, while he was driving to work. Neither of these encounters by Respondents resulted in Petitioner's mandatory custody, or in him being placed in expedited removal proceedings. He is not subject now, nor should he be subject, to expedited removal proceedings in the future. His current detention is contrary to the position of the Respondents regarding his removal proceedings that he has been in the country for over two years. Nothing in Petitioner's circumstances over the last two years have changed other than the commencement of increased ICE/ERO enforcement during which Petitioner was arrested while lawfully working in the United States.

CONCLUSION

For the foregoing reasons, this Court should order Petitioner's release or in the alternative, order Respondents to schedule a neutral bond hearing under section 1226 for Petitioner's removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order.

Dated: January 13, 2026

Respectfully Submitted,

/s/ Brittni Rivera
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