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## INTRODUCTION

Petitioner respectfully submits this reply to Respondents' ("Government") Expedited Answer to the Petition for Writ of Habeas Corpus ("Petition"). The Court should grant habeas relief for the following reasons. First, the Government does not dispute the critical facts in this case and there are no material issues in dispute with regard to Petitioner's immigration history. Petitioner entered the United States and was paroled into the interior pursuant to 8 U.S.C. § 1182(d)(5)(A). Petitioner thereafter proactively sought asylum protection with U.S. Citizenship and Immigration Services ("USCIS") and was detained at the Newark Asylum Office on December 1, 2025 following his positive credible fear interview. Second, the Government's contention that Petitioner is lawfully subject to mandatory detention pursuant to section 1225(b)(1)(B)(ii) is without merit and has been rejected by other courts in this district. Simply put, Petitioner's detention in the interior of the United States after having been paroled is inconsistent with the statutory text of section 1225.

Petitioner's continued detention violates due process because it unlawfully subjects Petitioner continued detention without a statutory basis. As relief, Petitioner should be released from detention, as other Courts have found is warranted.

## ARGUMENTS

### **I. PETITIONER'S DETENTION IS GOVERNED BY 8 U.S.C. § 1226(a), NOT § 1225(b)**

The Government does not dispute that Petitioner was briefly detained after entering the United States but was released on parole. Specifically, Petitioner was released on parole pursuant to 8 U.S.C. § 1182(d)(5)(A). *See* ECF No. 4-1 (noting "USBP subsequently released SALAMA

on parole”); Ex. A Parole Notice (screenshot of paperwork provided to Petitioner indicating that the parole was pursuant to § 1182(d)(5)(A)).

This case is nearly identical to *Rodriguez v. Rokosky*, Civil Action No. 25-17419 (CPO), 2025 LX 564881 (D.N.J. Dec. 3, 2025). In *Rodriguez*, the noncitizen was encountered by Customs and Border Patrol shortly after entering Texas. He was paroled from custody pursuant to the Department of Homeland Security's exercise of discretion under 8 U.S.C. § 1182(d)(5)(A) and resided continuously in the United States. Like Petitioner in this case, Rodriguez was scheduled for a credible fear interview with USCIS and was found to have a credible fear of persecution if returned to his home country. *Id.* at \*2-3. However, he was detained upon the conclusion of the interview.

The Government took the position that Rodriguez was subject to mandatory detention under section 1225(b)(1)(B)(ii) through the application of § 1225(b)(1)(A)(iii) (describing the application to "certain other aliens"). However, the court recognized that 8 U.S.C. § 1225(b)(1) states that it governs "[i]nspection of . . . certain other aliens who have not been admitted or paroled," and expressly describes them in § 1225(b)(1)(A)(iii)(II), as an alien "who has not been admitted or paroled into the United States, and who has not affirmatively shown . . . that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph." *See id.*

Therefore, the court held that since:

Petitioner was paroled into the United States in September 2021 pursuant to the Department of Homeland Security's exercise of discretion under 8 U.S.C. § 1182(d)(5)(A), following a medical risk review, (ECF No. 1, at ¶ 3; ECF No. 1-5, at 1), and because § 1225(b)(1)(A)(iii)(II) applies only to individuals "who have not been . . . paroled," the plain language of the statute clearly and unambiguously shows that § 1225(b)(1)(A)(iii) cannot serve as the basis for Petitioner's detention

*Id.* at \*4.

Other courts in this district have held similarly. *See, e.g., Huertas Falcon v. Bondi*, 25-17164 (KMW) (D.N.J. Dec. 18, 2025) (finding in a factually similar case that “applying § 1225(b) to an individual apprehended in the interior after years of continuous presence stretches the statutory text beyond its permissible bounds.”); *Polat v. Soto*, Civil Action No. 2:25-cv-16893, 2025 LX 543541, at \*9 (D.N.J. Dec. 17, 2025). As noted in *Polat*:

The question is not whether DHS can identify a historical event at the border, but whether the individual was, at the moment of arrest, meaningfully "seeking admission" within the purview of § 1225(b). Here, Petitioner was plainly not. Rather, he fits squarely within § 1226(a). Petitioner was not encountered as a recent entrant, nor was he in the process of admission . . . . He was living in the interior, pursuing affirmative relief, subject to ongoing USCIS adjudications, and fully integrated into the domestic enforcement system . . . . Nothing in § 1225(b) or its interpretive case law permits DHS to treat such a person as an arriving alien engaged in inspection. *See Jennings*, 583 U.S. at 297-298; *Bethancourt Soto v. Soto*, No. 25-CV-16200, 2025 U.S. Dist. LEXIS 207818, 2025 WL 2976572, at \*5-6 (D.N.J. Oct. 22, 2025).

*Id.* at \*9.

This is precisely the situation in this case. Petitioner was briefly detained after entering the United States, and DHS exercised its discretion and released him on parole pursuant to 8 U.S.C. § 1182(d)(5)(A). Petitioner has lived in the interior of the United States since then and has affirmatively sought relief with USCIS by way of an asylum application. Indeed, Petitioner did everything he needed to preserve his right to seek asylum and meet the strict one-year deadline to file the application. Only in December 2025 did USCIS finally conduct a credible fear interview and detain him, claiming that he was effectively still an applicant for admission at the border. As stated by the courts in this district, such an interpretation of detention authority under § 1225 is without basis. *See also Rodriguez-Acurio v. Almodovar*, No. 25-6065, 2025 U.S. Dist. LEXIS 233224, 2025 WL 3314420, at \*15-17 (E.D.N.Y. Nov. 28, 2025) (concluding that "has not been . . . paroled" in § 1225(b)(1)(A)(iii)(II) describes a past event of parole, not a

present status, because the present-perfect tense captures whether parole occurred "at any time in the indefinite past," and that although the term "parole" can refer to both a manner of entry and legal status, contextual clues, such as the pairing of "admitted or paroled into the United States," show that Congress referred to a manner of entry, not an ongoing legal status) (cleaned up)).

Here, as in *Rodriguez*, "Respondents offer no statutory-interpretation argument to the contrary and do not provide any analysis as to the text, structure, or grammar of § 1182(d)(5)(A) or § 1225(b)(1) . . ." *Rodriguez*, 2025 LX 564881, at \*5 (D.N.J. Dec. 3, 2025). Moreover, "the statutory text does not support such a reading and as the court in *Coalition* explained, § 1182(d)(5)(A) does *not* state that a parolee 'return[s] . . . to the position of an applicant for admission standing at the threshold of entry,' or that he 'reverts to the status he possessed prior to the grant of parole,' it provides only that, upon expiration of parole, the individual 'shall . . . return . . . to the custody from which he was paroled' and that 'his case shall continue to be dealt with in the same manner as that of any other *applicant for admission*,' *i.e.*, any ordinary noncitizen present in the United States without admission." *Id* at \*5 (emphasis original) (quoting *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-872, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986, at \*23-24 (D.D.C. Aug. 1, 2025)).

The Government contends that Petitioner's due process rights are not being violated, but the Government's position presumes that his detention is lawful under section 1225. Clearly, if his detention is not governed by mandatory detention under section 1225 but rather discretionary detention under section 1226(a) as other courts in this district have held, then his continued detention is unlawful. As relief, Petitioner respectfully requests that the Court grant immediate release as the court in *Rodriguez* found to be warranted. *Rodriguez*, 2025 LX 564881, at \*6-7 (holding that "because 'Petitioner's arrest and detention were blatantly unlawful from the start,

the only commensurate and appropriate equitable remedy to even partially restore [Petitioner] is to immediate release him and enjoin the Government from further similar transgressions.””) (quoting *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 371-73 (S.D.N.Y. 2019) (“[T]he Supreme Court has repeatedly upheld prisoners' rights to challenge the constitutionality of their detentions, and allow[ed] courts to implement corrective remedies, regardless of whether there were other bases for the petitioners to be subsequently detained.”).

The Government contends that a bond hearing is sufficient relief if detention is found to be unconstitutional. However, the Court should not “allow Respondents to transform an unlawful detention into a lawful one through alternative, retrospective, *post hoc* justification presented mid-litigation, as doing so would give the Government a free pass to violate a person's statutory and constitutional rights first and search for authority later.” *Id.*; see also *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379, at \*7 & n.4 (E.D. Mich. Aug. 29, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025).

### **CONCLUSION**

For the foregoing reasons, the Court should grant habeas relief.

Respectfully submitted on 7<sup>th</sup> day of January 2026

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