

District Judge Tana Lin

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

MAQSOOD ALI HAIDARI,

Petitioner,

v.

IMMIGRATION AND CUSTOMS  
ENFORCEMENT FIELD OFFICE  
DIRECTOR,

Respondent.

Case No. 2:26-cv-00039-TL

RESPONDENT'S RETURN  
MEMORANDUM

Noted for Consideration:  
February 17, 2026

**I. INTRODUCTION**

This Court should deny Petitioner's Petition for Writ of Habeas Corpus. Dkt. 1 ("Pet."). Petitioner, a native and citizen of Afghanistan, is an arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) pending resolution of his removal proceedings. His detention is lawful and does not violate due process.

Petitioner alleges a violation of his due process rights and seeks release on supervision or a bond hearing. However, as an arriving alien, he is not entitled to a bond hearing before an immigration judge, and his detention, approximately four and a half months, has not become unreasonably prolonged to implicate constitutional concerns.

## II. FACTUAL AND PROCEDURAL BACKGROUND

### A. Petitioner Maqsood Ali Haidari

Petitioner is a native and citizen of Afghanistan. Declaration of Deportation Officer Gennadiy Baz (Baz Decl.) ¶ 3; Declaration of Lawrence Van Daley (Van Daley Decl.), Exhibit 1, Notice to Appear. He entered the United States on September 2, 2024, through a CBP One appointment at the Calexico California port of entry. Baz Decl., ¶ 4; Van Daley Decl., Exhibit 2, 2024 Form I-213. He was placed in expedited removal proceedings and referred to U.S. Citizenship and Immigration Services (USCIS) for a credible fear interview, which was conducted on September 17, 2024. Baz Decl., ¶¶ 4-5; see also Van Daley Decl., Exhibit 2, 2024 I-213, Exhibit 7, Credible Fear. On September 24, 2024, Petitioner was served with a Notice to Appear (NTA) charging him as removable under 8 U.S.C. § 1182(a)(7)(A)(i)(I), for being an immigrant without valid entry documents. Baz Decl., ¶ 6; Van Daley Decl., Exhibit 1, Notice to Appear. The NTA was filed with the Executive Office for Immigration Review (EOIR) on the same day. Baz Decl., ¶ 6.

On October 6, 2024, Petitioner was granted humanitarian parole under 8 U.S.C. § 1182(d)(5)(A), which was set to expire after one year or upon his departure from the United States, whichever occurred first. Baz Decl., ¶ 7; Van Daley Decl., Exhibit 3, Parole Packet. On January 27, 2025, Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal, with the immigration court. Baz Decl., ¶ 8. He appeared, represented by counsel, for a hearing on the merits of his application before an immigration judge in San Diego on September 15, 2025. Baz Decl., ¶ 10. At the conclusion of the hearing, the Petitioner was ordered removed to Afghanistan. *Id.*; Van Daley Decl., Exhibit 4, Immigration Judge Order.

On September 22, 2025, Petitioner was encountered at the Pacific Highway Port of Entry in Blaine, Washington, being returned by Canadian Border Patrol authorities pursuant to the U.S.-

1 Canada Safe Third Country Agreement. Baz Decl., ¶ 11; Van Daley Decl., Exhibit 5, 2025 Form  
2 I-213. By attempting to depart the United States and enter Canada, Petitioner's parole terminated  
3 automatically. *See* Van Daley Decl., Exhibit 3, Parole Packet. Upon his return to the United States,  
4 he was treated as an arriving alien seeking admission without valid documents and taken into  
5 custody. *See* Baz Decl., ¶ 11; *see also*, Van Daley Decl., Exhibit 5, 2025 Form I-213, Exhibit 6,  
6 Warrant. He was processed as an alien subject to a removal order that is not final and transported  
7 to the Northwest Immigration Processing Center (NWIPC) in Tacoma, Washington, where he  
8 remains detained. Baz Decl., ¶ 11; Van Daley Decl., Exhibit 5, 2025 Form I-213.

9 On October 10, 2025, Petitioner filed a timely appeal of the immigration judge's removal  
10 order with the Board of Immigration Appeals (BIA). *See* Baz Decl., ¶ 12. On December 18, 2025,  
11 Petitioner requested a custody redetermination (bond hearing) before the immigration court. *See*  
12 Baz Decl., ¶ 13. The immigration judge denied the request, finding no jurisdiction because  
13 Petitioner is an arriving alien in removal proceedings. Baz Decl., ¶ 14. Petitioner's appeal to the  
14 BIA remains pending, and he continues to be detained at NWIPC pending final resolution of his  
15 removal proceedings. *See* Baz Decl., ¶ 16.

16 As of February 10, 2026, Petitioner has been detained for approximately four and a half  
17 months since his encounter at the port of entry on September 22, 2025.

18 **B. 8 U.S.C. § 1225(b)**

19 Petitioner is an arriving alien subject to mandatory detention pursuant to 8 U.S.C.  
20 § 1225(b). 8 C.F.R. §§ 1.2 (definition of arriving alien), 235.3(c). Thus, "for aliens arriving in and  
21 seeking admission into the United States who are placed directly in full removal proceedings,  
22 section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal  
23 proceedings have concluded.'" *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (citing *Jennings*,  
24 583 U.S. at 299).

1 Congress has determined that all aliens subject to Section 1225(b) are subject to mandatory  
2 detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2), the sole means  
3 of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or  
4 significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283. This parole terminates  
5 automatically at the expiration of the time for which parole was authorized, or upon service of a  
6 charging document for either expedited removal proceedings under Section 1225(b) or removal  
7 proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1); (2)(i). Upon termination of parole, the  
8 applicant reverts to the status that he or she had at the time of parole. *See id.*

9 **C. Interim Parole under 8 U.S.C. § 1182(d)(5)(A)**

10 While all noncitizens detained pursuant to 8 U.S.C. § 1225(b) are subject to mandatory  
11 detention, they may be subject to parole by the Attorney General or Department of Homeland  
12 Security (DHS), and that is not an issue that the Immigration Judge has authority to consider. *See*  
13 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(a) (2025); *see also Jennings*, 583 U.S. at 300 (noting  
14 that the Attorney General may grant aliens detained under section 235(b)(1) temporary parole into  
15 the United States “for urgent humanitarian reasons or significant public benefit” (quoting INA §  
16 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A)). This discretionary parole is statutorily required to be  
17 “temporary parole” under 8 U.S.C. § 1182(d)(5)(A), and the statute does not grant the Attorney  
18 General or DHS the discretion to grant indefinite parole to those subject to mandatory detention.

19 Federal regulations govern the expiration of parole and state that where the parole has  
20 expired, “no written notice shall be required.” 8 C.F.R. § 212.5(e)(1).

21 **III. LEGAL STANDARD**

22 This Court has jurisdiction to review Petitioner's habeas claims under 28 U.S.C. § 2241, as  
23 habeas jurisdiction extends to challenges to immigration detention. *Zadvydas v. Davis*, 533 U.S.

1 678, 688 (2001). However, the Petition fails on the merits. Petitioner's detention is lawful, and his  
2 claims of constitutional violations are without merit.

#### 3 IV. ARGUMENT

##### 4 A. Petitioner is an Arriving Alien and Subject to Mandatory Detention

5 Arriving aliens, like Petitioner, who are placed in removal proceedings under 8 U.S.C. §  
6 1229a, are subject to mandatory detention pending a final decision on removability. 8 U.S.C. §  
7 1225(b)(2)(A). An “arriving alien” is defined as “an applicant for admission coming or attempting  
8 to come into the United States at a port-of-entry.” 8 C.F.R. § 1.2. This definition applies to  
9 Petitioner, who was initially encountered in 2024 at the Calexico California Port of Entry and was  
10 later encountered in 2025 at the Pacific Highway Port of Entry seeking to re-enter the United  
11 States. See 8 U.S.C. § 1101(a)(13)(B) (parolees are not considered admitted); 8 C.F.R. §  
12 212.5(e)(1)(i) (parole terminates automatically upon departure from the United States).

13 The statutory language of 8 U.S.C. § 1225(b)(2)(A) mandates detention without reference  
14 to time limits or bond hearings. The Supreme Court has emphasized that this provision requires  
15 detention throughout removal proceedings, rejecting interpretations that impose implicit  
16 limitations. *Jennings* 583 U.S. at 299-303. Unlike other provisions, Section 1225(b)(2)(A) includes  
17 no exceptions beyond discretionary parole for “urgent humanitarian reasons or significant public  
18 benefit,” 8 U.S.C. § 1182(d)(5)(A); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S.  
19 103, 116 (2020).

20 Humanitarian parole is a discretionary mechanism allowing temporary presence in the  
21 United States and does not confer any immigration status or right to remain. 8 C.F.R. § 212.5(a).  
22 The temporariness of parole is inherent in the statute, as it may be revoked at the discretion of the  
23 Secretary of Homeland Security “when the purposes of such parole shall, in the opinion of the  
24

1 Secretary, have been served” or when it is no longer in the public interest. 8 U.S.C. §  
2 1182(d)(5)(A); *see also Matter of M-S-*, 27 I&N Dec. 509, 515 (A.G. 2019).

3 Petitioner’s parole was expressly conditioned to expire after one year or upon departure  
4 from the United States. 8 C.F.R. § 212.5(e)(1)(i). Petitioner’s attempt to depart the United States  
5 and enter Canada on or about September 22, 2025, shortly after receiving a removal order on  
6 September 15, 2025, triggered the automatic termination of his parole. This action not only ended  
7 his temporary parole but also demonstrates that Petitioner poses a clear flight risk, as it appears he  
8 sought to evade enforcement of his removal order by fleeing to a neighboring country. Such  
9 behavior underscores the necessity of detention under 8 U.S.C. § 1225(b)(2)(A) to prevent further  
10 absconding and ensure appearance for proceedings. *See Demore v. Kim*, 538 U.S. 510, 528 (2003);  
11 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Upon his return by Canadian  
12 authorities under the Safe Third Country Agreement, Petitioner was properly re-detained as an  
13 arriving alien, with no entitlement to reinstatement of his terminated parole. *See* 8 CFR §  
14 1240.11(g). The discretionary nature of parole, combined with its temporariness and Petitioner’s  
15 demonstrated flight risk, confirms that his current detention is both lawful and appropriate.

16 **B. Petitioner is Not Entitled to a Bond Hearing.**

17 As an arriving alien detained under 8 U.S.C. § 1225(b)(2)(A), Petitioner is ineligible for a  
18 custody redetermination hearing before an immigration judge. The governing regulation explicitly  
19 deprives immigration judges of jurisdiction over bond requests from arriving aliens in removal  
20 proceedings. 8 C.F.R. § 1003.19(h)(2)(i)(B). This regulation implements the mandatory detention  
21 framework established by Congress in 8 U.S.C. § 1225(b)(2)(A), which does not provide for bond  
22 eligibility. *See Jennings*, 583 U.S. at 303; *Matter of Yajure-Hurtado*, 29 I&N Dec. at 218-20 (BIA  
23 2025). The immigration judge’s denial of jurisdiction over Petitioner’s bond request on December  
24 18, 2025, was therefore correct and consistent with binding authority.

1 The Supreme Court has rejected arguments that the Immigration and Nationality Act  
2 implicitly requires bond hearings for detainees under 8 U.S.C. § 1225 (b). In *Jennings*, the Court  
3 held that the statute's plain text mandates detention without periodic reviews, overturning lower  
4 court constructions that read in such requirements to avoid constitutional issues. *Jennings*, 583  
5 U.S. at 310. Post-*Jennings*, courts have upheld the lack of statutory bond rights for arriving aliens,  
6 distinguishing them from other detainees who may qualify under provisions like 8 U.S.C. §  
7 1226(a). See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1201 (9th Cir. 2022).

8 While Petitioner may request discretionary parole from DHS, such decisions are committed  
9 to agency discretion and generally unreviewable by courts. 8 U.S.C. § 1252(a)(2)(B)(ii). Absent a  
10 showing of abuse of discretion or a colorable constitutional violation, neither of which Petitioner  
11 has alleged, this Court lacks jurisdiction to order a bond hearing or release. See *Rodriguez Diaz*,  
12 53 F.4th at 1205. Petitioner's claim for a bond hearing thus fails as a matter of law.

13 **C. Petitioner's Detention Comports with Due Process.**

14 The Supreme Court has long held that arriving aliens are treated as if stopped at the border  
15 and possess only those rights Congress provides. *Shaughnessy v. United States ex rel. Mezei*, 345  
16 U.S. 206, 212 (1953) (indefinite detention of arriving alien without hearing does not violate due  
17 process); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (arriving aliens have procedural due process  
18 rights in exclusion proceedings but limited substantive rights). More recently, the Court reaffirmed  
19 that arriving aliens lack robust due process entitlements, particularly in initial screening processes.  
20 *Thuraissigiam*, 591 U.S. at 118 (2020).

21 Mandatory detention during removal proceedings is presumptively constitutional,  
22 especially for durations tied to the proceedings' progress. *Demore* 538 U.S. at 531. Although  
23 *Jennings* left open as-applied constitutional challenges to prolonged detention, 583 U.S. at 310,  
24 Petitioner's case does not present such circumstances. Courts evaluate due process claims by

1 considering factors like detention length, reasons for delay, likelihood of indefinite continuation,  
2 and government interest. *See Rodriguez Diaz*, 53 F.4th at 1205-06 (9th Cir. 2022) (applying  
3 *Mathews v. Eldridge*, 424 U.S. 319 (1976)); *Martinez v. Clark*, 36 F.4th 1219, 1231 (9th Cir.  
4 2022).

5 Here, Petitioner's detention since September 22, 2025, approximately four and a half  
6 months, is well within constitutional bounds. *Demore*, 538 U.S. at 530-31. Any delay should be  
7 attributed to Petitioner's appeal to the BIA, filed October 10, 2025, not government misconduct.  
8 *See id.* at 531. There is no indication of indefinite detention; BIA appeals typically resolve within  
9 months, and removal can proceed promptly thereafter if affirmed. *Rodriguez Diaz*, 53 F.4th at  
10 1206. The government's strong interest in detaining arriving aliens to prevent flight and ensure  
11 removal outweighs Petitioner's liberty interest at this stage. *See Mathews*, 424 U.S. at 335.

12 **D. Detention Does Not Violate the Fifth Amendment Due Process Clause**

13 As the Supreme Court has repeatedly recognized, detention is a constitutionally  
14 permissible aspect of the Government's enforcement of the immigration laws and fulfills the  
15 legitimate purpose of ensuring that individuals appear for their removal proceedings. *See*  
16 *Jennings*, 583 U.S. at 286; *Demore v. Kim*, 538 U.S. 510, 523 (2003); *Zadvydas v. Davis*, 533 U.S.  
17 678, 690-91 (2001). Consistent with the requirements of due process, Petitioner's confinement is  
18 thus "reasonably related" to a legitimate government interest. *Bell v. Wolfish*, 441 U.S. 535, 538-  
19 39 (1979). Ice detains him due to his return to the United States and his pending BIA appeal.

20 **V. CONCLUSION**

21 For the foregoing reasons, Federal Respondents respectfully request that this Court deny  
22 the Petition.

23 //

24 //

1 DATED this 11th day of February, 2026.

2 Respectfully submitted,

3 s/ Lawrence Van Daley

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14 I certify that this memorandum contains 2,290  
15 words, in compliance with the Local Civil Rules.