

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KHALIM SADYKOV,

Petitioner

v.

MICHAEL ROSE, et al.,

Respondents.

Civil Case No.: 26-cv-86

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE  
IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS**

## I. INTRODUCTION

In their Response, Respondents offer no case-specific facts; Respondents do not shed any light on why Petitioner was detained, whether or when Petitioner's parole was revoked, or what specific interest the government has in detaining Petitioner, who has been a productive and law-abiding member of our society for over three years.

Respondents do note from the onset that "this case does not involve a claim that Petitioner should instead be considered detained under 8 U.S.C. § 1226(a), a legal question has been considered by this Court and numerous other courts in the wake of the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I.&N. Dec. 216 (B.I.A. 2025)." ECF 5, p. 1. Respondents are correct – the *Yajure Hurtado* holding has been rejected in over 1,600 cases<sup>1</sup>, decided by over 300 different judges across the United States.

In the instant matter, however, the Respondents' position has been rejected in *only* 66 cases decided since July 2025, including recently from the Eastern District of Pennsylvania. *See Muev v. O'Neill, et al.*, 2:25-cv-07172-JMG, Dkt. 4 (E.D. Pa. Jan. 13, 2026); *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123 (D. Or. 2025); *A-J-R v. Rokosky*, 2026 WL 25056 (D.N.J. 2026); *Munoz Materano v. Arteta*, 2025 WL 2630826 (S.D.N.Y. 2025); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128 (W.D.N.Y. 2025); *Pablo-Mendoza v. Lynch*, 2026 WL 40070 (W.D. Mich. 2026); *Yakubiv v. Raycraft*, 2026 WL 19099 (W.D. Mich. 2026); *Guerrero Rujano v. Lynch*, 2026 WL 18618 (W.D. Mich. 2026); *Gabriel v. Bondi*, 2025 WL 3443584 (D. Minn. 2025); *Rodriguez Cabrera v. Mattos*,

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<sup>1</sup> A January 5, 2026, Politico article notes that "More than 300 federal judges, including appointees of every president since Ronald Reagan, have now rebuffed the administration's six-month-old effort to expand its so-called "mandatory detention" policy, according to a POLITICO analysis of court dockets from across the country. Those judges have ordered immigrants' release or the opportunity for bond hearings in more than 1,600 cases." *See* <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494> (Last accessed January 6, 2026).

2025 WL 3072687 (D. Nev. 2025); *L-J-P-L- v. Wamsley*, 2025 WL 2430268 (D. Or. 2025); *Ramirez Tesara v. Wamsley*, \_\_\_ F. Supp. 3d \_\_\_ (W.D. Wash. 2025); *E.A.P.C. v. Wofford*, 2026 WL 32833 (E.D. Cal. 2026); *Ana Gisela Valle Garcia v. Chesnut*, 2025 WL 3771348 (E.D. Cal. 2025); *Selim Kirboga v. LaRose*, 2025 WL 3779426 (S.D. Cal. 2025); *J.E.H.G. v. Chesnut*, 2025 WL 3523108 (E.D. Cal. 2025); *Aguilera v. Albarran*, 2025 WL 3485016 (E.D. Cal. 2025); *Castillo v. Wofford*, 2025 WL 3466064 (E.D. Cal. 2025); *E.A.P.C. v. Wofford*, 2025 WL 3289185 (E.D. Cal. 2025); *Arias v. LaRose*, 2025 WL 3295385 (S.D. Cal. 2025); *M.R.R. v. Chestnut*, 2025 WL 3265446 (E.D. Cal. 2025); *Ramandi v. Field Office Director, ICE ERO San Francisco*, 2025 WL 3182732 (E.D. Cal. 2025); *M.V.I. v. Andrews*, 2025 WL 3154403 (E.D. Cal. 2025); *O.P.A.M. v. Wofford*, 2025 WL 3120552 (E.D. Cal. 2025); *C.A.R.V. v. Wofford*, 2025 WL 3059549 (E.D. Cal. 2025); *J.S.H.M. v. Wofford*, 2025 WL 2938808 (E.D. Cal. 2025); *Noori v. LaRose*, 2025 WL 2800149 (S.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2675785 (E.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2581185 (E.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2609456 (E.D. Cal. 2025); *Martinez Hernandez v. Andrews*, 2025 WL 2495767 (E.D. Cal. 2025); *Salazar v. Kaiser*, 2025 WL 2456232 (E.D. Cal. 2025); *Garcia v. Andrews*, 2025 WL 2420068 (E.D. Cal. 2025); *Castellon v. Kaiser*, 2025 WL 2373425 (E.D. Cal. 2025); *Maklad v. Murray*, 2025 WL 2299376 (E.D. Cal. 2025); *Villegas-Gonzalez v. Lynch*, 2025 WL 3767939 (W.D. Mich. 2025); *Morales Benavente v. Raycraft*, 2025 WL 3760755 (W.D. Mich. 2025); *Kenzhebaev v. Noem*, 2025 WL 3737975 (W.D. Mich. 2025); *Padilla Hernandez v. Raycraft*, 2025 WL 3730936 (W.D. Mich. 2025); *Tezara Munoz v. Lynch*, 2025 WL 3687338 (W.D. Mich. 2025); *Gil Pirona v. Noem*, 2025 WL 3687339 (W.D. Mich. 2025); *Rodriguez v. Raycraft*, 2025 WL 3673583 (W.D. Mich. 2025); *Quintero-Martinez v. Raycraft*, 2025 WL 3649515 (W.D. Mich. 2025); *Marin v. Lynch*, 2025 WL 3533028 (W.D. Mich. 2025); *Arevalo v. Lynch*, 2025 WL 3522106 (W.D. Mich. 2025); *Ocanto v. Lynch*, 2025 WL

3522113 (W.D. Mich. 2025); *Martinez v. Raycraft*, 2025 WL 3511093 (W.D. Mich. 2025); *Zelaya v. Lynch*, 2025 WL 3496472 (W.D. Mich. 2025); *Huaman Villanueva v. Chestnut*, 2026 WL 19120 (E.D. Cal. 2026); *Colina-Meira v. Lyons*, 2025 WL 3769424 (E.D. Cal. 2025); *Mohammadi v. LaRose*, 2025 WL 3731737 (S.D. Cal. 2025); *Bornachera Florez v. Robbins*, 2025 WL 3718832 (E.D. Cal. 2025); *Gergawi v. LaRose*, 2025 WL 3719321 (S.D. Cal. 2025); *Martinez v. LaRose*, 2025 WL 3677938 (S.D. Cal. 2025); *Singh v. Albarran*, 2025 WL 3640678 (E.D. Cal. 2025); *Ramirez-Bibiano v. LaRose*, 2025 WL 3632748 (S.D. Cal. 2025); *Yasin v. LaRose*, 2025 WL 3638140 (S.D. Cal. 2025); *Khorsheed v. LaRose*, 2025 WL 3638141 (S.D. Cal. 2025); *Bora v. Otay Mesa Detention Center Warden*, 2025 WL 3539166 (S.D. Cal. 2025); *A.V.V. v. LaRose*, 2025 WL 3493566 (S.D. Cal. 2025); *Araujo v. LaRose*, 2025 WL 3278016 (S.D. Cal. 2025); *Perez v. LaRose*, 2025 WL 3171742 (S.D. Cal. 2025); *Ramazan M. v. Andrews*, 2025 WL 3145562 (E.D. Cal. 2025); *Salazar v. Casey*, 2025 WL 3063629 (S.D. Cal. 2025); *Villanueva v. Chestnut*, 2025 WL 2996559 (E.D. Cal. 2025); *Boutta v. Raycraft*, 2025 WL 3628232 (W.D. Mich. 2025).

The crux of the issue before this court is: was the revocation of Petitioner's parole and his resulting re-detention lawful? For the reasons set forth below, this Court should find that it was not, and order Petitioner's immediate release.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

Respondents' summary of the facts and background is too cursory to give this matter proper context.

On December 21, 2022, Petitioner, presented himself to the U.S. Customs and Border Protection (CBP) agency at the San Ysidro, California port of entry and expressed his intent to seek asylum in the United States; at that time CBP was well within their right to place Petitioner

in mandatory detention pursuant to 8 U.S.C. § 1225(b). CBP interviewed Petitioner to review his potential asylum claim and determine whether he presented a security risk or a risk of absconding.

Based on Petitioner's individualized facts and circumstances, Petitioner was granted permission to lawfully enter the United States on a temporary basis and given humanitarian parole under 8 U.S.C. § 1182(d)(5) while he pursued his application for asylum. Thus, on December 21, 2022, Petitioner was permitted lawfully to enter and remain in the United States while his immigration proceedings progressed. *See* ECF 1, Exh. A & B. He was issued an I-94, Record of Entry, as well as a Notice to Appear (NTA) in immigration court. *Id.* Additionally, as a condition of his parole he was required to check-in with Immigration and Customs Enforcement (ICE) at regular intervals.

Petitioner submitted a timely asylum application, attended his immigration court hearings. He obtained employment authorization and a social security card and was otherwise a law abiding and productive member of society.

So far, everything had been done precisely as Congress had directed under federal immigration laws, including 8 U.S.C. §§ 1182(d)(5) and 1225. That is until January 2, 2026, when Petitioner was arrested while lawfully working for Amazon Flex. ICE took Petitioner into custody that day; in essence, ICE was revoking his parole and now choosing to detain him under § 1225(b). Upon information and belief, Petitioner's arrest was not based on changed circumstances, additional information, or newly discovered security concerns. Rather, Petitioner's arrest in detention is solely part of the current administrations goal of deporting as many people as possible, as quickly as possible.

Petitioner, though he followed the law and instruction of the government in lockstep over the three period since he entered, has now had his liberty stripped from him without meaningful notice, explanation or rationale.

ICE took Petitioner into custody that day; in essence, ICE was revoking his parole and now, three years after their first opportunity, choosing to detain him under § 1225(b). Upon information and belief, Petitioner's arrest was not based on changed circumstances, additional information, or newly discovered security concerns. Rather, Petitioner's arrest in detention is solely part of the current administrations goal of deporting as many people as possible, as quickly as possible. They Government was not and is not interested in the fair and orderly conclusion of Petitioner's immigration proceedings, rather their interest lies in detaining him, treating him inhumanely, making him as uncomfortable as possible in detention, pushing his case through to a temporary immigration judge who will deny his application for asylum (very possibly without even holding a hearing), and pushing him to accept deportation instead of undergo the long appeal process while detained for months or even years, all while separated from his family.

### **III. STATUTORY AND REGULATORY BASIS FOR PETITIONER'S PAROLE AND RECENT DETENTION**

Petitioner entered the United States at a port of entry, seeking asylum, and was subsequently paroled into the United States under 8 U.S.C. § 1182(d)(5)(A).

The Immigration and Nationality Act ("INA") "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025). "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”). 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)). The government may place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or the government may place the noncitizen into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)). In the instant matter, the government placed Petitioner into regular removal proceedings under 8 U.S.C. § 1229(a).

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). Then, “when the purpose of the parole has been served,” § 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)).

To terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements. As set forth in 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). That is, “[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole.” *Loiza 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)). As explained below, Respondents have failed to follow the applicable statutory and regulatory provisions to terminate Petitioner’s parole.

#### **IV. JURISDICTION**

Respondents claim that this Court is statutorily barred from hearing this case because the Immigration and Nationality Act (“INA”) contains a variety of jurisdiction stripping provisions, codified at 8 U.S.C. § 1252. ECF 5, p. 3. Respondents argue that three such provisions prevent this Court from hearing the petitioner’s claim. *Id.* As numerous courts have already found, these arguments fail.

##### **a. 8 U.S.C. § 1252(g)**

The respondents first point to § 1252(g), arguing it strips this Court of jurisdiction to review the decision to detain the petitioner. ECF 5, p. 4. That provision states that “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” § 1252(g).

Petitioner does not, at any point in his Petition or these proceedings, challenge the Attorney General's authority to commence or adjudicate proceedings.

Respondents' analysis is contrary to the Supreme Court's ruling *Reno v. Am.-Arab Anti-Discrimination Comm.* ("AADC"), 525 U.S. 471 (1999). In *AADC*, the Supreme Court held that § 1252(g) did not apply to anything beyond those "three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" 525 U.S. 471, 482 (1999); *see also Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) ("We did not interpret [the language in § 1252(g)] to sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General. Instead, we read the language to refer to just those three specific actions themselves."). The *AADC* Court stated that it made sense for Congress to target these three stages because at each stage the former INS has discretion to abandon the endeavor, and at the time § 1252(g) was enacted, the former INS routinely had been defending suits challenging its exercise of discretion in deportation cases. *DeSousa v. Reno*, 190 F.3d 175, 182 (3d Cir. 1999) (internal citations omitted). Interpreting § 1252(g) beyond those three discrete actions – as Respondents ask this Court to do – would treat § 1252(g) as an extremely broad provision that would apply to every deportation-related challenge, because every such challenge could be deemed a suit related to the commencement or adjudication of removal proceedings. *Id.* The Supreme Court and the Third Circuit have explicitly rejected such a broad interpretation of § 1252(g), instead finding that it is "a narrow" provision. *Id.*

Petitioner does not, at any point in his Petition or these proceedings, challenge the three specific decisions made by the executive that are covered by § 1252(g): decisions to "commence proceedings, adjudicate cases, or execute removal orders." Petitioner's detention may occur

during—but is nonetheless independent of—his removal proceedings. Accordingly, § 1252(g) does not strip this Court of jurisdiction.

**b. 8 U.S.C. § 1252(b)(9)**

Next, Respondents argue that § 1252(b)(9), deprives this Court of jurisdiction because – according to Respondents – Petitioner’s claims arise from Respondents’ actions taken to remove him from the United States. ECF 5, p. 5.

Section 1252(b)(9) provides:

“Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section.... [N]o court shall have jurisdiction ... to review such an order or such questions of law or fact.”

Respondents contend this section means that Petitioner’s detention, which arose out of Respondents’ attempt to remove him from the country, cannot be reviewed until a final removal order is issued, and then only by a circuit court. This argument relies on language of § 1252(a)(5) that states that judicial review of a removal order is only available through a petition filed “with an appropriate court of appeals.” ECF 5, p. 6. Respondents thus read these two provisions (§ 1252(a)(5) and § 1252(b)(9)) as working together to divert all claims relating to removal proceedings to a court of appeals post-removal order. *Id.*

Respondents cite to *J.E.F.M. v. Lynch*, 837 F.3d 1026 (9th Cir. 2016), in support of their claim that “taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the PFR process.” ECF 5, p. 6. Respondents’ reliance is misplaced; they have again cherry-picked select wording without analysis. The Court in *J.E.F.M.*, on the very next page, goes on to “distinguish[] between claims that ‘arise from’ removal proceedings under § 1252(b)(9)—which must be channeled

through the PFR process—and claims that are collateral to, or independent of, the removal process.” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016). The *J.E.F.M.* Court then reaffirmed the long-standing principal “that § 1252(b)(9) *does not apply to federal habeas corpus provisions* that do not involve final orders of removal.” *Id.* (emphasis added).

Again, the Respondents construe the statutory text too broadly. A careful reader will notice that the language in § 1252(b)(9) is similar to that in § 1252(g)—the words “arising from,” which the Supreme Court in *AADC* interpreted narrowly, appear again. Indeed, the Court later held in *Jennings* that § 1252(b)(9) did not bar it from hearing a petition alleging that the plaintiff’s detention was overly prolonged in violation of due process. 583 U.S. at 291, 294–95. Accordingly, *Jennings* holds that § 1252(b)(9) does not bar this Court from hearing her claim.

**c. 8 U.S.C. § 1252(a)(2)(B)(ii)**

Respondents next argue that § 1252(a)(2)(B)(ii) shields from judicial review discretionary decisions like what charges of inadmissibility to lodge. ECF 5, p. 7. When the Government argues that a statutory scheme “prohibit[s] all judicial review” of agency decision-making, it bears a “heavy burden.” *E.O.H.C. v. Sec’y United States Dep’t of Homeland Sec.*, 950 F.3d 177, 188 (3d Cir. 2020). The entirety of Respondents’ argument is:

“Thus, even if there were any remaining ambiguity as to whether a foreign national could challenge the decision to detain him during removal proceedings, Congress added this additional jurisdictional bar to clarify that courts may not entertain a challenge to a discretionary decision under the INA.”

Respondents fail to meet their “heavy burden.”

**d. The Suspension Clause**

Even if a statute purported to strip this Court of jurisdiction over Petitioner’s claims, the Court would nonetheless have jurisdiction under the Suspension Clause, which provides that “[t]he

Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” U.S. Const. Art. I § 9, cl. 2. If this Court lacks jurisdiction to hear Petitioner’s claims, there is *no* other adequate forum that would allow Petitioner—an asylum seeker who has developed substantial ties to the United States—to challenge his unlawful detention. Such a “miscarriage[] of justice” would undoubtedly run afoul of the Suspension Clause, the “fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.” *Harris v. Nelson*, 394 U.S. 286, 290–91 (1969). Further, the Third Circuit has recognized that the Suspension Clause can be triggered when a petitioner is requesting relief from custody. *Osorio-Martinez v. Att’y Gen. United States of Am.*, 893 F.3d 153, 178 (3d Cir. 2018). This is exactly the case for Petitioner, who seeks relief from unlawful executive detention.

As an asylum seeker who has spent almost exactly three years in the United States, Petitioner is entitled to invoke the protections of the Suspension Clause. *See Boumediene v. Bush*, 553 U.S. 723, 739 (2008) (asking whether certain parties can invoke the Suspension Clause in light of any special status). The Clause, at “the absolute minimum . . . protects the writ as it existed” when the Constitution was adopted in 1789. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (citation and internal quotation marks omitted). At that time, habeas corpus “provided a vehicle to challenge all manner of detention by government officials,” and the Suspension Clause “could be invoked by aliens already in the country who were held in custody pending deportation.” *D.H.S. v. Thuraissigiam*, 591 U.S. 103, 137 (2020). Petitioner falls squarely in this category. Unlike a noncitizen who was “apprehended within hours of surreptitiously entering the United States,” *Castro v. United States Dep’t of Homeland Sec.*, 835 F.3d 422, 445 (3d Cir. 2016), or a mere 25 yards from the border, *Thuraissigiam*, 591 U.S. at 107, Petitioner has developed substantial ties to

the United States—he has lived here for three years; he has been paroled; he has received work authorization; and he has complied with all requests from immigration officials and appeared at all of his immigration court hearings. ECF 1. He has built friendships and is a productive part of the Pennsylvania community. *Id.* Accordingly, Petitioner can properly invoke the Suspension Clause. *See Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (explaining that a noncitizen’s constitutional status changes after he “gains admission to our country” and begins developing community ties); *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (“[Noncitizens] receive constitutional protections when they have come within the territory of the United States and developed substantial connections with this country.”); *Osorio-Martinez v. Att’y Gen. United States of Am.*, 893 F.3d 153, 178 (3d Cir. 2018) (holding that jurisdiction-stripping provision of the INA violated the Suspension Clause as applied to recipients of special immigrant juvenile status). Because Petitioner is entitled to invoke the Suspension Clause, this Court must exercise jurisdiction over his claims. To ensure that the Great Writ is not unlawfully suspended, a prisoner must have “a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law,” *Boumediene*, 553 U. S. at 779 (quoting *St. Cyr*, 533 U.S. at 302), and the reviewing court “must have sufficient authority to conduct a meaningful review of both the cause for detention and the Executive’s power to detain,” *id.* at 783. The need for habeas review is “most pressing” where, as here, a person is in executive detention, as such prisoners, unlike those imprisoned pursuant to a criminal sentence, have not been offered the procedural safeguards of a criminal trial prior to their detention. *Id.* at 783.

In this case, the Executive Branch has detained Petitioner in contravention of the laws governing his parole, including federal regulations, the INA, and the Due Process Clause. But without this Court’s review, there are no adequate procedures through which Petitioner can show

that his detention is unlawful. *See Boumediene*, 553 U.S. at 771 (asking whether, despite the existence of a “statute stripping jurisdiction to issue the writ,” “Congress has provided adequate substitute procedures for habeas corpus”). If Petitioner is to have any opportunity “to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law,” *Boumediene*, 553 U.S. at 779 (quoting *St. Cyr*, 533 U.S. at 302), it must be because this Court exercises habeas jurisdiction.

For these reasons, the Suspension Clause provides for jurisdiction over Petitioner’s claims.

## V. REVOCATION OF PAROLE IS NOT “DISCRETIONARY”

Respondents aver:

“Parole-termination decisions are one such class of decisions because Congress gave the Secretary of Homeland Security authority to terminate parole grants when, “*in [her] opinion*,” the purpose of parole has been served. 8 U.S.C. § 1182(d)(5)(A) (emphasis added). That language shows the decision is plainly a discretionary “decision or action,”<sup>2</sup> 8 U.S.C. § 1252(a)(2)(B)(ii), and this Court therefore lacks authority to review a decision by DHS to revoke Petitioner’s previously granted parole. *See Samirah v. O’Connell*, 335 F.3d 545, 549 (7th Cir. 2003) (holding DHS’s authority to “grant or revoke” parole under § 1182(d)(5)(A) is a matter of agency discretion barred from review by § 1252(a)(2)(B)(ii)); *Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010) (same).”

ECF 5, p. 7-8. Respondents’ logic is flawed. Respondents, in essence, make the illogical leap that “opinion” is equivalent to “discretion.” First, the entire text of 8 U.S.C. § 1182 uses the word “discretion” approximately 25 times; Congress certainly could have written section 1182(d)(5)(A) to state “in the [*discretion*] of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody” ... but it did not do so. We “presume that Congress expressed its legislative intent through the ordinary meaning of the words it chose to use.” *United*

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<sup>2</sup> 8 U.S.C. § 1252(a)(2)(B)(ii) states “any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security...” As explained below, 8 U.S.C. § 1182(d)(5)(A) does not specify the revocation of parole to be discretionary.

*States v. Knox*, 32 F.3d 733, 744 (3d Cir. 1994). Congress did not use “discretion” in lieu of “opinion”, likely because an “opinion” is significantly distinct from a discretionary determination. An opinion is a judgment, belief, or evaluation; a discretionary decision, on the other hand, is one where the decision-maker is free to choose among multiple acceptable options without being strictly bound by rules or criteria. But here, based on the statute and the regulations, *there are rules and criteria* for the revocation of Petitioner’s parole and his related re-detention.

The agency’s interpretation as codified in its own regulation aligns with Petitioner’s interpretation. In drafting its regulations based on the statute, the agency found that to terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements. As set forth in 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). That is, “[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole.” *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)). The purpose of Petitioner’s parole – to apply for asylum – was not accomplished and has not been completed – in other words, the purpose of his parole has not been served; and Respondents can point to no other reason for the revocation of Petitioner’s parole.

***a. Revocation of parole requires a case-by-case analysis***

Parole revocations in the context of the INA must occur on a case-by-case basis and may occur “when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled.” *Y-Z-H-L v. Bostock*, 2025 WL 1898025, at \*12 (quoting 8 C.F.R. § 212.5(e)). 8 C.F.R. § 212.5(e) requires written notice of the termination of parole except where the immigrant has departed or when the specified period of parole has expired.

Applying *Y-Z-H-L* and § 212.5(e), in *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at \*11 (W.D.N.Y. July 16, 2025), the court found that the INA requires a case-by-case analysis as to the decision to revoke humanitarian parole:

“This Court agrees that both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole “must attend to the reasons an individual [noncitizen] received parole.” *See id.* There is no indication in the record that the government conducted any such analysis here. On the contrary, the letter Mata Velasquez received merely stated summarily that DHS had “revoked [his] parole.” Docket Item 62-1 at 5. Thus, there is no indication that—as required by the statute and regulations—an official with authority made a determination specific to Mata Velasquez that either “the purpose for which [his] parole was authorized” has been “accomplish[ed]” or that “neither humanitarian reasons nor public benefit warrants [his] continued presence...in the United States.” *See* 8 C.F.R. § 212.5(e)(2)(i). As a result, DHS’s revocation of Mata Velasquez’s parole violated his rights under the statute and regulations. *See Y-Z-L-H*, 2025 WL 1898025, at \*13.”

In *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025), the court reached a similar conclusion relying on the Due Process Clause:

**“... even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody. *See Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at \*2 (N.D. Cal. May 6, 2022) (“[T]his Court joins other courts of this district facing facts similar to the present case and finds Petitioner raised serious questions going to the merits of his claim that due process requires a hearing before an IJ prior to re-detention.”); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at \*2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at \*3 (N.D. Cal. Aug.**

23, 2020); *Ortega*, 415 F. Supp. 3d at 969 (“Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond.”).”

*Id.* (emphasis added). Other courts have held similarly. *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at \*4 (E.D. Cal. Mar. 3, 2025); see *Padilla v. U.S. Immigr. & Customs Enft.*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) (“The Supreme Court has consistently held that non-punitive detention violates the Constitution unless it is strictly limited, and, typically, accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure that the imprisonment serves the government's legitimate goals.”). It is worth repeating, the purpose of Petitioner’s parole – to apply for asylum – was not accomplished and has not been completed – in other words, the purpose of his parole has not been served; and Respondents can point to no other reason for the revocation of Petitioner’s parole.

#### **VI. RESPONDENTS ERROR IN THEIR RELIANCE ON *CONTRERAS V. ODDO***

Respondents lean heavily *Contreras v. Oddo*, No. 3:25-CV-162, 2025 WL 2104428 (W.D. Pa. July 28, 2025) in their response to the petition. ECF 5, p. 10. *Contreras*, however, is not informative or relevant to the instant matter, as it deals entirely with a separate procedure and area of the law.

In *Contreras*, the district court concluded that the petitioner was in the expedited removal process pursuant to 8 U.S.C. § 1225(a)(1), and therefore was subject to mandatory detention. 2025 WL 2104428, at \*5.

Congress carved out a separate form of removal, known as “expedited removal,” which permits the accelerated removal of aliens who, according to immigration officers, meet a set of statutorily determined criteria. *Osorio-Martinez v. Att’y Gen. United States of Am.*, 893 F.3d 153, 162 (3d Cir. 2018), citing 8 U.S.C. § 1225(b)(1). Those requirements include: (1) that the alien be

“arriving in the United States” **or not have been continuously present in the United States for two years**; (2) that the alien has “not been admitted or paroled” into the United States; and (3) that the alien either lack valid immigration documentation or have made a misrepresentation in an attempt to attain immigration status. *Id.* Aside from an asylum interview, such aliens are afforded no procedural protections, let alone the various procedural safeguards of standard removal proceedings. *See id.*

“Aliens covered by § 1225(b)(1) are normally ordered removed ‘without further hearing or review’ pursuant to an expedited removal process.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (quoting 8 U.S.C. § 1225(b)(1)(A)(i)). However, if a § 1225(b)(1) alien “indicates either an intention to apply for asylum ... or a fear of persecution,” then that alien is taken out of expedited removal processes and referred for an asylum officer for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii). If an immigration officer determines after the interview that the alien has a “credible fear of persecution”, then “the alien shall be detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii).

Though Respondents *were* within their right to enforce 8 U.S.C. § 1225(a)(1) against Petitioner *when* he entered the United States, they did not and instead paroled him into the United States to undergo “standard removal proceedings.” Respondents’ right to enforce expedited removal proceedings against Petitioner expired once Petitioner established two years of physical presence in the United States (unlike *Contreras* who had been in the United States less than two years).

Further, in *Contreras*, the Petitioner was a Venezuelan citizen and national, admitted to the United States as an arriving alien under a specific parole program for Cubans, Haitians,

Nicaraguans, and Venezuelans (CHNV); a program which was later terminated with written notice through the Federal Register. *Id.*, generally.

Accordingly, *Contreras* is factually and legally distinct and should not inform this Court's decision.

## VII. DUE PROCESS

Petitioner has lived freely in the United States for three years – establishing himself as law-abiding members of the community. Their presence in the United States was birthed by Respondents themselves, who on December 21, 2022, analyzed Petitioner's individualized facts and circumstances, and thereafter granted him permission to lawfully enter the United States while Petitioner pursued his application for asylum. Then, abruptly, and without *any* reason proffered by Respondents, and certainly without any notice to Petitioner, that freedom was ripped away from Petitioner on January 2, 2026, when Petitioner, while continuing to follow Respondents' orders in lock-step, appeared for his scheduled check-in and was detained without notice.

Respondents aver that "Petitioner's recent detention pending his removal proceedings does not violate the Due Process Clause." ECF 5, p. 13. In support of this assertion, Respondents state that "[i]n light of Congress's interest in regulating immigration, including by keeping specified persons in detention pending the removal period, the Supreme Court dispensed of any due process concerns without engaging in the test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)", citing *Demore v. Kim*, 538 U.S. 510 (2003), generally. *Id.*

"The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). While Respondents are correct that Petitioner was an arriving alien on December 21, 2022, when he arrived at the San Ysidro, California point-of-entry; but Respondents neglect

the fact that Petitioner’s constitutional rights were solidified when he was – on that same day – permitted to “pass through our gates.” An alien who is “on the threshold of initial entry” stands on a footing different from those who have “passed through our gates.” *Chi Thon Ngo v. I.N.S.*, 192 F.3d 390, 396 (3d Cir. 1999), amended (Dec. 30, 1999), quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544, 70 S.Ct. 309, 94 L.Ed. 317 (1950)).

The Fifth Amendment protects the right to be free from deprivation of life, liberty or property without due process of law. U.S. CONST. amend. V. The Due Process Clause extends to all “persons” regardless of status, including non-citizens, whether here lawfully, unlawfully, temporarily, or permanently. *Zadvydas* at 693. To determine whether detention violates procedural due process, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh the following three factors: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335. Further, government detention violates substantive due process unless it is ordered in a criminal proceeding with adequate procedural protections, or in non-punitive circumstances “where a special justification ... outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas* at 690.

**a. Petitioner’s Private Interest**

First, Petitioner’s “private interest ... affected by the official action is the most elemental of liberty interests—the interest in being free from physical detention.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, (2004). Respondent’s reliance on *Demore* and the Congress’s interest in regulating

immigration does little to tip the scales. “It is clear that commitment for *any* purpose constitutes a significant deprivation of liberty that requires due process protection.” *Jones v. United States*, 463 U.S. 354, 361, 103 S.Ct. 3043, 77 L.Ed.2d 694 (1983) (emphasis added; internal quotation marks omitted). At this stage in the *Mathews* calculus, the Court must consider the interest of the *erroneously* detained individual. *Carey v. Piphus*, 435 U.S. 247, 259 (1978) (“Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property.” *Hamdi* at 2646–47.

**b. The Risk of an Erroneous Deprivation**

As to the second prong of the *Mathews v. Eldridge* balancing test, the Court should find that the risk of erroneous deprivation is particularly high here. The purpose of requiring an opinion regarding the completion of purpose of parole (8 U.S.C. § 1182(d)(5)(A)) and written notice prior to the decision to detain a noncitizen (8 C.F.R. § 212.5(e)) who was previously paroled into the United States is to prevent an erroneous deprivation of liberty. This purpose is illustrated clearly here, as Petitioner has raised significant and supported legal arguments against Respondents’ detention of Petitioner under §1225(b). Further, Respondents have presented no evidence in the record suggesting that Petitioner’s purpose for parole has been accomplished, that there was any analysis or thought put into his detention, that he is a flight risk or a danger to his community; only that he is subject to mandatory detention. *See id.*

As evinced in the underlying petition before this Court, Petitioner was interviewed by CBP, who reviewed his potential asylum claim and made a determination as to whether petitioner presented a security risk or a risk of absconding. According to CBP all individuals processed at POEs are thoroughly screened and vetted, and individuals who pose a national security or public safety concern are detained. On a case-by-case basis, arriving aliens may be enrolled in

immigration proceedings that will determine whether they have a legal basis to remain in the United States.” See ECF 1. Based on Petitioner’s individualized facts and circumstances, Petitioner was granted permission to lawfully enter the United States on a temporary basis and given humanitarian while the pursued his applications for asylum. Respondents, *at that time*, had the right to detain Petitioner under 8 U.S.C. § 1225(b), but chose not to based on Petitioner’s specific circumstances. And, “when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it.” *Loper Bright Ent.*, 603 U.S. at 413.

In Petitioner’s case, immigration officials, vested with authority delegated by Congress to the Attorney General and DHS, first determined that Petitioner should be paroled into the United States, not subject to mandatory detention, and placed into standard removal proceedings. ECF No. 1, Exh. A. The unilateral decision by the ICE on January 2, 2026, and without notice to Petitioner, chose to apply a different statutory framework to Petitioner’s circumstances despite earlier determining otherwise now leaves his liberty interest at risk. Petitioner contends that the Respondents may not now extend the bounds of their authority to apply § 1225(b) against him, and this Court must ensure proper application of the laws against Petitioner.

**c. The Government's Interest**

The final *Mathews* factor concerns the United States’ interest in the proceedings, as well as any financial or administrative burdens associated with permissible alternatives. *Mathews*, 424 U.S. at 335. Petitioner recognizes that the United States has an interest in meaningful immigration laws that advance its stated policies. However, the United States has an equal and countervailing interest in consistent application of its laws and ensuring that those laws are applied under the proper means. It is not appropriate to utilize the “wrong” statute against any person to ensure their

continued detention. Respondents may not choose unilaterally when and how to apply duly enacted laws.

The Government's interests in detaining noncitizens are (1) ensuring that noncitizens do not abscond and (2) ensuring they do not commit crimes. *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491. Respondents have provided no evidence or argument that Petitioner is either a flight risk or a danger, and the record would indicate that he is neither: he has no criminal record whatsoever, and he has attended his ICE and Immigration Court appointments when required. Respondents cannot show that their interest in detaining Petitioner without a bond hearing outweighs Petitioner's liberty interests; nor can they show that the effort and cost of providing Petitioner with procedural safeguards is burdensome.

Accordingly, all three *Mathews* factors weigh heavily in support of Petitioner.

#### **VIII. ALTERNATIVELY, SECTION 1226, NOT SECTION 1225 GOVERNS PETITIONER'S DETENTION**

Section 1225(b) "authorizes the Government to detain certain [noncitizens] *seeking* admission into the country," while Section 1226(a) and (c) "authorizes the government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added). Petitioner is unquestionably in the latter category, as he entered the country on December 21, 2022, and was subsequently paroled and released under and OREC. *H.L.P.F. v. Wamsley*, No. 6:25-CV-01899-AA, 2025 WL 3539252, at \*2 (D. Or. Dec. 10, 2025); *see also, A-J-R v. Rokosky*, No. 25-17279 (RMB), 2026 WL 25056, at \*4 (D.N.J. Jan. 5, 2026).

Here, as in similar cases, "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." *Rivas Rodriguez v.*

*Rokosky*, No. CV 25-17419 (CPO), 2025 WL 3485628, at \*2 (D.N.J. Dec. 3, 2025). Furthermore, once Petitioner was paroled into the United States, his parole automatically terminates without written notice only upon his departure from the United States or the expiration of time for which his parole was authorized. 8 C.F.R. § 212.5(e). *A-J-R v. Rokosky*, 2026 WL 25056, at \*4; *see also Rodriguez v. Rokosky*, 2025 WL 3485628, at \*2 [“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 [] 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.”]; *see also Rodriguez-Acurio v. Almodovar*, No. 25-6065, 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)].

Moreover, 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); nor do Respondents dispute that Petitioner has resided in the United States continuously for more than three years.

**IX. CONCLUSION**

Petitioner respectfully requests that this Honorable Court grant this petition for writ of habeas corpus because he is detained in violation of federal law and/or the Constitution. Petitioner further requests this court order his immediate release from custody.

Respectfully Submitted,

Date: January 14, 2026

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