

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 26-cv-00126-RMR

SHOKHRUKH KHASANOV,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary, Department of Homeland Security,
U.S. DEPARTMENT OF HOMELAND SECURITY,

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs
Enforcement,

PAMELA BONDI, in her official capacity as U.S. Attorney General,

GEORGE VALDEZ, Acting Denver Field Office Director of Enforcement and Removal
Operations, Immigration and Customs Enforcement,

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention
Facility,

Respondents.

**CONSOLIDATED RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 5)
AND PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY INJUNCTION (ECF No. 2)**

Pursuant to the Court's Order, ECF No. 5, Respondents hereby submit this consolidated response to the Petition for Writ of Habeas Corpus, ECF No. 1, and Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction, ECF No. 2. The Petition and Motion should be denied because Petitioner is properly detained under 8 U.S.C. § 1225(b).¹

¹ The Petition, ECF No. 1, and Motion, ECF No. 2, seek almost identical relief on substantially similar grounds. See ECF No. 1, at 25; ECF No. 2, at 18. Respondents

Petitioner was apprehended by U.S. Customs and Border Protection (“CBP”) in October 2021 near the U.S.-Mexico border shortly after he entered the United States without inspection. As a recently arrived applicant for admission who was seeking admission to the United States, he was detained under 8 U.S.C. § 1225(b) and placed in expedited removal proceedings. While in detention, he was assessed for comorbidities with the COVID-19 virus and, based on that assessment, released from custody and granted discretionary parole into the United States.

By statute, Petitioner’s parole is *not* regarded as an admission into the United States, and upon termination of parole he is to be “returned to the custody from which he was paroled.” 8 U.S.C. § 1182(d)(5)(A). That is, now that his parole has terminated, Petitioner is once again subject to mandatory detention under § 1225(b)—just as he was when he was initially detained at the border.

Petitioner’s detention is lawful, and the petition should be denied

FACTUAL BACKGROUND

A. Petitioner’s initial detention and parole from custody

Petitioner is a citizen and native of Uzbekistan. Ex. A ¶ 4 (Decl. of Kevin Benner). He entered the United States without inspection or parole on or about October 7, 2021. *Id.* ¶ 5. He encountered CBP near San Luis, Arizona, shortly after he illegally crossed the United States-Mexico border. *Id.* CBP determined that Petitioner is inadmissible to the United States and processed him for expedited removal pursuant to 8 U.S.C.

therefore address Petitioner’s arguments together and aver that the Court should deny both on the same grounds; namely, that Petitioner is lawfully detained under 8 U.S.C. § 1225(b) and because his re-detention does not violate due process.

§ 1225(b)(1). Ex. A ¶ 6. He was transferred to the custody of U.S. Immigration and Customs Enforcement (“ICE”) on October 9, 2021. *Id.* ¶ 7.

On October 24, 2021, ICE conducted a custody redetermination pursuant to the *Fraihat* injunction. *Id.* ¶ 8; see *Fraihat v. U.S. Immigr. and Customs Enft*, 445 F.Supp.3d 709 (C.D. Cal. 2020) (entering class-wide injunction that required ICE to identify, track, and make timely custody determinations for immigration detainees with COVID-19 risk factors). Due to Petitioner’s comorbidity with the COVID-19 virus, ICE granted Petitioner parole from custody and released him on an Order of Release on Recognizance. Ex. A ¶ 8.

Following his parole from custody, Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal, on February 3, 2022. *Id.* ¶ 9. USCIS closed Petitioner’s asylum application on June 13, 2025. See *id.* ¶ 10.

B. Petitioner’s re-detention under 8 U.S.C. § 1225(b) and removal proceedings

On December 28, 2025, an officer with the Sweetwater County Sheriff’s Office encountered Petitioner at or near Rock Springs, Wyoming while attempting to assist Petitioner with an apparently disabled commercial vehicle. *Id.* ¶ 11. The officer involved in that investigation is qualified to perform the functions of an immigration officer in relation to the investigation, apprehension, and detention of aliens in the United States pursuant to 8 U.S.C. § 1357(g) (authorizing “an officer or employee of [a] State or subdivision” to “perform a function of an immigration officer” pursuant to an agreement between the State or political subdivision and the Attorney General). Ex. A ¶ 11.

Upon consultation with local ICE officials and following the review of relevant

immigration databases, the officer determined that Petitioner did not possess documentation authorizing his entry into or presence in the United States. *Id.* ¶ 12. Petitioner was arrested and detained pending resolution of removal proceedings, and his release was terminated. *Id.* Petitioner is detained pursuant to 8 U.S.C. § 1225(b). Ex. A ¶ 13. On March 11, 2026, ICE issued a Notice of Parole Termination to Petitioner. *Id.* ¶ 15; *see also* Ex. A, Attach. 1 (Notice of Parole Termination).

On January 30, 2026, the Department of Homeland Security (“DHS”) issued a Notice to Appear (“NTA”), initiating removal proceedings under 8 U.S.C. § 1229a, before the Executive Office for Immigration Review. Ex. A ¶ 14. The NTA charged Petitioner with being inadmissible to the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated) and 8 U.S.C. § 1182(a)(7)(A)(i)(I) (immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document). Ex. A ¶ 14. Petitioner’s removal proceedings are pending and his next hearing in removal proceedings is scheduled for March 27, 2026. *Id.* ¶ 16.

C. The habeas petition

Petitioner filed this habeas action on January 12, 2026, challenging his re-detention. *See* ECF No. 1 ¶ 1 (“This case challenges Respondents’ unlawful re-detention of Petitioner.”).² He brings two claims in the petition. Claim One argues that

² Petitioner filed the Motion the same day. *See* ECF No. 2.

his re-detention without a hearing violates the Due Process Clause of the Fifth Amendment under the factors from *Matthews v. Eldridge*, 424 U.S. 335 (1976). See ECF No. 1 ¶¶ 57-66. Claim Two argues that ICE violated its own procedures and regulations, specifically 8 C.F.R. § 241.4, when it revoked Petitioner's release from custody. See ECF No. 1 ¶¶ 67-80. Petitioner contends that because he was not afforded the process required by 8 C.F.R. § 241.4, the Court should order his immediate release. See ECF No. 1 ¶¶ 78-79. Petitioner seeks immediate release and an order permanently enjoining Respondents from re-detaining him without written notice and a hearing. See ECF No. 1, at 25-26.

ARGUMENT

The Court should deny the Petition. Petitioner is lawfully detained under 8 U.S.C. § 1225(b) and his previous release on discretionary parole does not change that. Furthermore, Petitioner has received the process he is due upon termination of his parole.

I. Petitioner is subject to mandatory detention under § 1225(b).

In the Immigration and Nationality Act ("INA"), Congress determined when certain aliens may or must be detained or removed. As relevant here, 8 U.S.C. § 1225 governs detention and removal of "applicants for admission." An applicant for admission is an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .)" 8 U.S.C. § 1225(a)(1).

Section 1225(b)(1) governs the inspection and detention of certain aliens who are arriving and inadmissible on various specified grounds, including § 1182(a)(7), one of the provisions under which Petitioner is charged as inadmissible. See 8 U.S.C. § 1225(b)(1)(A)(i)-(iii); Ex. A ¶ 14. Section 1225(b)(2) is a “catchall” provision that applies to those applicants for admission not covered by § 1225(b)(1). See *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Under Section 1225(b)(2)(A), any “applicant for admission” who is “seeking admission” into the United States and who an immigration officer determines is “not clearly and beyond a doubt entitled to be admitted,” “shall be detained for” removal proceedings under 8 U.S.C. § 1229a. For aliens subject to either § 1225(b)(1) or § 1225(b)(2)(A), detention is mandatory during removal proceedings. Section 1225(b) does not provide for bond hearings during removal proceedings.

Petitioner plainly falls into the statutory definition of an “applicant for admission.” He entered the United States without admission on or about October 7, 2021, Ex. A ¶ 5, and he is therefore an “alien present in the United States who has not been admitted” 8 U.S.C. § 1225(a)(1). Furthermore, because he was detained shortly after he entered the United States, Ex. A ¶¶ 5-7, he is differently situated than other noncitizens who did not encounter DHS shortly after entry but, rather, were encountered within the United States after living in the country for years. In sum, Petitioner is an “applicant for admission” under § 1225(b) and thus is subject to mandatory detention.

Petitioner’s discretionary parole into the United States did not change his status as an applicant for admission subject to mandatory detention under § 1225(b). As the

parole statute expressly provides, parole of a noncitizen applying for admission to the United States

shall not be regarded as an admission of the alien and 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*** 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.

8 U.S.C. § 1182(d)(5)(A) (emphases added). Thus, Petitioner's parole into the United States was not any form of "admission" and, upon termination of the parole, he was back to the same status as he was when he was released on parole: subject to mandatory detention under § 1225(b).³ Cf. *Depelian v. Baltazar, et al.*, No. 25-cv-3765-SKC-TPO, ECF No. 18, at 8-9 (D. Colo. Jan. 20, 2026) (concluding that alien who presented at port of entry, was initially subject to mandatory detention under 8 U.S.C. § 1225(b), and was subsequently paroled into the United States under 8 U.S.C. § 1182(d)(5)(A), was again subject to mandatory detention under § 1225(b) upon his re-detention).⁴

³ Petitioner could have been detained under *either* § 1225(b)(1) (the provision that governs the inspection and detention of certain aliens who are arriving and inadmissible on various specified grounds, including inadmissibility under § 1182(a)(7), see 8 U.S.C. § 1225(b)(1)(A)(i)-(iii), or § 1225(b)(2), a "catchall" provision that applies to those applicants for admission not covered by Section 1225(b)(1), see *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Singh v. Andrews*, No. 1:26-cv-00457-DC-SCR, 2026 WL 292649, at *3 (E.D. Cal. Feb. 4, 2026). Which subsection he is now detained under is ultimately immaterial, since detention is mandatory under both. See, e.g., *Richards v. Choate*, No. 1:25-cv-03134-DDD-STV, 2025 WL 4474703, at *4 (D. Colo. Dec. 5, 2025).

⁴ Respondents acknowledge two decisions from other Courts in this district that have held otherwise, but those decisions are not availing. In *Rafibaev v. Noem et al.*, No. 26-cv-00461-PAB, ECF No. 12, the Court addressed *only* whether the petitioner was properly detained under § 1225(b)(1) after parole was terminated; it did not consider the

II. Due process does not compel Petitioner's release.

Petitioner's re-detention under § 1225(b) does not violate due process. "[T]he Government may constitutionally detain deportable aliens during the limited time necessary for their removal proceedings." *Demore v. Kim*, 538 U.S. 510, 526 (2003). Petitioner suggests that his re-detention without a prior hearing violates due process, and he urges the Court to conduct a due-process inquiry, which he argues undermines any justification for his continued detention. See ECF No. 1 ¶¶ 57-66. But, as discussed below, Petitioner's position is not consistent with due-process principles in this context as set out by the Supreme Court, the Tenth Circuit, and this Court.

The political branches have broad power in the realm of immigration. The Supreme Court "has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (citing cases). That prerogative flows from the political branches' broad power over immigration, which is "at its zenith at the international border." *United States v. Flores-Montano*, 541 U.S. 149, 152-53 (2004).

alternative basis for detention that Respondents raise here, § 1225(b)(2)(A), which *also* requires mandatory detention. In *Buitrago Murzi v. Noem*, No. 26-cv-00359-CNS, ECF No. 14, the Court found that the petitioner who was paroled and subsequently re-detained was not an applicant for admission and was necessarily held under § 1226(a). But that decision did not contend with the plain language of § 1182(d)(5)(A), which provides that parole under that section—as Petitioner was—"shall not be regarded as an admission of the alien," and that when parole is terminated, the "alien shall forthwith return or be returned to the custody from which he was paroled" (emphases added). Thus, these cases are distinguishable. The Court should reach the same result Judge Crews did in his well-reasoned opinion in *Depelian* and deny the petition.

Thus, “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (citation omitted); accord *Sierra v. Immigration & Naturalization Servs.*, 258 F.3d 1213, 1218 (10th Cir. 2001) (quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950)). More recent Supreme Court precedent makes clear that this principle applies to individuals like Petitioner, who are detained shortly after unlawfully entering into the country. See *DHS v. Thuraissigiam*, 591 U.S. 103, 107, 114 (2020) (habeas petitioner who “attempted to enter the country illegally” but was apprehended approximately 25 yards into the United States “has no entitlement to procedural rights other than those afforded by statute”). As a Court in this district recently explained, “[t]his does not mean that an inadmissible arriving alien⁵ has no due-process rights, but ‘rather, the applicable statutory process shapes [his] procedural due-process rights.’” *Doe v. Bondi et al.*, No. 1:25-cv-02712-DDD-SBP, 2025 WL 3516292, at *5 (D. Colo. Nov. 4, 2025) (quoting *Gonzalez Aguilar v. Wolf*, 448 F. Supp. 3d 1202, 1212 (D.N.M. 2020), in which the court concluded that the petitioner, who was detained under 8 U.S.C. § 1225(b)(2)(A), “has no statutory right to release or a bond hearing” and thus “has no due-process right to the relief requested”)); accord *Richards*, 2025 WL 4474703, at *4.

⁵ Petitioner did not present at a port of entry and so, in that respect, he is distinct from noncitizens who did and are therefore “arriving aliens.” However, as explained above, because he was encountered and detained shortly after he illegally entered the United States and then paroled into the country under § 1182(d)(5)(A), he was effectively “denied entry” into the United States, see *Shaughnessy*, 345 U.S. at 212, and is therefore similarly situated to arriving aliens for due process purposes, see *Thuraissigiam*, 591 U.S. at 107, 139.

Petitioner has received the process he is due.

The parole statute vests in the Secretary of Homeland Security discretionary authority to both parole a noncitizen into the United States subject to certain conditions and return a noncitizen to custody “when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served.” 8 U.S.C. § 1182(d)(5)(A). Thus, Congress left revocation of parole to the discretion of the Secretary. *See id.*⁶

The implementing regulations—found at 8 C.F.R. § 212.5—provide additional procedure for the termination of discretionary parole. Petitioner argues that a different regulation, 8 C.F.R. § 214.4, provides the relevant procedure governing revocation of his release. ECF No. 1 ¶¶ 69-71. That is not accurate. By its plain terms, 8 C.F.R. § 241.4 applies only to “an alien ordered removed.” Petitioner is in removal proceedings and so does not have a final order of removal. *See Ex. A* ¶¶ 14-16. Furthermore, he was paroled into the United States under § 1182(d)(5)(A). *See Ex. A* ¶ 8; *see also Ex. A, Attach 1*. Accordingly, the termination of his parole is governed by 8 C.F.R. § 212.5 (addressing parole under section 212(d)(5)(A) of the INA, which was codified at § 1182(d)(5)(A)).

As relevant here, 8 C.F.R. § 212.5(e) addresses “[t]ermination of parole,” distinguishing between: (1) parole that terminates “automatically,” i.e., upon the noncitizen’s departure from the United States or “expiration of the time for which parole

⁶ That authority is further delegated to other DHS officials by regulation. *See* 8 C.F.R. § 212.5(a) (delegation to, among others, ICE Field Office Directors, Deputy Field Office Directors, “and those other officials as may be designated in writing”).

was authorized,” 8 C.F.R. § 212.5(e)(1); and (2) parole that terminates “[o]n notice,” *id.*

§ 212.5(e)(2). Regarding the latter, subsection (e)(2) provides that:

[U]pon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in [§ 212.5(a)], 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.

Id. § 212.5(e)(2)(i). Thus, regulations state that discretionary parole may be terminated for two reasons: (1) if the purpose of parole is accomplished; or (2) if, in the opinion of the relevant agency official, humanitarian reasons and the public benefit no longer warrant parole. If parole is terminated on either of those grounds, then written notice should be issued.

As an initial matter, ICE’s discretionary decisions to parole Petitioner—and to terminate that parole—are not judicially reviewable. See 8 U.S.C. § 1252(a)(2)(B)(ii) (“[n]otwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision . . . no court shall have jurisdiction to review . . . any . . . 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” (with a limited exception not applicable here)); *id.* § 1182(d)(5)(A) (providing that the Secretary of Homeland Security “may . . . in his discretion parole” an applicant for admission into the United States temporarily, and that the noncitizen shall be returned to custody “when the purposes of such parole shall, *in the opinion of*

the Secretary of Homeland Security, have been served"). As the Tenth Circuit has clarified, a constitutional challenge to the *procedures* used in a parole proceeding may be heard in habeas, but a challenge to the *discretionary decision* whether to grant parole may not. See *Sierra*, 258 F.3d 1213 at 127.

And Petitioner has received the process he is due by statute. Petitioner was paroled from detention in 2021 for a specific purpose: because he had a comorbidity with the COVID-19 virus. Ex. A ¶ 8. Thus, § 1182(d)(5) provides that his parole could be terminated once that purpose was accomplished. Consistent with their Congressionally prescribed duties, ICE officials reviewed Petitioner's case in 2026 and determined that the purpose of parole in 2021—for a comorbidity with the COVID-19 virus—had been served. See Ex. A ¶ 15; Ex. A, Attach 1. Accordingly, Petitioner has been re-detained under § 1225(b) and, pursuant to 8 C.F.R. § 212.5(e)(2), issued written notice of the parole termination on March 11, 2026. See Ex. A ¶ 15; Ex. A, Attach 1.

III. Petitioner is not entitled to release based on any deficiency in the process by which Respondents terminated his parole and re-detained him.

Petitioner is not entitled to habeas relief based upon any defect in the issuance of the termination notice under 8 C.F.R. § 212.5(e)(2). Petitioner argues that his re-detention without a *hearing* violates due process, and he seeks immediate release. See ECF No. 1 ¶¶ 78-79. But Petitioner has been provided all the process that he is entitled to—a determination that the purpose of his parole was served and written termination notice. There are no grounds to conclude that ICE's failure to provide him something *beyond* what is required, i.e., release or a pre-detention hearing, is warranted. See

Thuraissigiam, 591 U.S. at 138-39 (for noncitizens like Petitioner who are “treated for due process purposes ‘as if stopped at the border,’” “the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, *are due process of law*” (citation omitted, emphasis added)).

A procedural due process claim concerns the procedures that are required by the Constitution, not the substance of an individual’s detention. The proper remedy for lack of procedural due process is additional process, not immediate release. And, as explained above, Petitioner, as a noncitizen stopped at the border, is due the process that he is afforded by Congress. The appropriate relief for any alleged due process violation would therefore be to order that Respondents provide Petitioner the process afforded by 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e)(2). *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (ruling that if the petitioner were to succeed in proving the Board of Immigration Appeal’s failure to comply with its regulations, “he should receive a new hearing before the Board,” which will afford him the “due process required”). Here, Petitioner has already received the process he is due: a determination that the purpose of Petitioner’s parole had been served and written notice of parole termination under 8 C.F.R. § 212.5(e)(2). Accordingly, there is no ongoing due process violation and no grounds to grant Petitioner his requested habeas relief—release—which goes far beyond what the statute and regulation require.

Additionally, Petitioner fails to establish that any deviation from the procedures for termination of parole is so serious as to amount to a due process violation. Respondents have issued written notice of Petitioner’s parole termination, but they had

not done so as of the date that he was arrested. To succeed on a due process claim for that violation, however, Petitioner would need to show prejudice from any violation. *Cf. Berrum-Garcia v. Comfort*, 390 F.3d 1158, 1165 (10th Cir. 2004) (“In order to prevail on his due process challenge, Petitioner must show he was prejudiced by the actions he claims violated his Fifth Amendment rights.”). Petitioner has not done so. As a baseline, Petitioner is subject to mandatory detention under § 1225(b). His re-detention under that statute without immediate written notice of parole termination did not deprive him of the ability to challenge his detention. Furthermore, Petitioner’s parole could be revoked upon a discretionary determination that the purpose of his parole had been served, which immigration officials have made. Although Petitioner did not receive separate notice of the termination at the time he was arrested, he has received it now, and he has not shown that the fact he did not receive it at the time of his arrest entitles him to release or a hearing. *See Depelian*, No. 25-cv-03765-SKC-TPO, ECF No. 18, at 10-11 (finding detention was mandatory under § 1225(b) and that ICE cured any due-process violation when they provided the petitioner with written notice of the termination after he was detained).

CONCLUSION

The Petition should be denied and the case dismissed.

Respectfully submitted March 11, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record.

s/ Alexandra J. Berger
U.S. Attorney's Office