

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION

Sergei Alekseev,
Petitioner,
v.
Warden, Philadelphia Federal Detention Center,
Philadelphia, PA,
David O'Neill, Acting Field Office Director,
Philadelphia Field Office Immigration and
Customs Enforcement,
Kristi Noem, Secretary U.S. Department of
Homeland Security
Pam Bondi, Attorney General, U.S. Department
of Justice,
Executive Office for Immigration Review,
Respondents.

Case No. 2:26-cv-462

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS

I. INTRODUCTION

Respondents' Opposition reframes this case as an impermissible collateral attack on removal proceedings and asserts sweeping jurisdictional bars; however, that is not the case. Petitioner is not asking this Court to decide removability, adjudicate asylum, or enjoin removal proceedings. Petitioner challenges only the statutory authority for his present detention. See ECF 1 at 1 ¶2; at 2 ¶¶3-7; at 6-8 ¶¶35-45.

Respondents' theory—"parole expired, so Petitioner returns to mandatory § 1225(b)(2) detention"—rests on an overreading of the "arriving alien" regulation and collapses the INA's

distinct detention frameworks into one. See ECF 6 at 3–4. The Court should reject that approach, hold that § 1226(a) governs, and order a prompt bond hearing (or release absent such a hearing).

II. RELEVANT BACKGROUND (UNCONTESTED CORE FACTS)

Respondents agree Petitioner (1) presented at San Ysidro on March 18, 2023, (2) was issued an NTA charging inadmissibility, (3) was paroled into the United States pending § 240 proceedings, and (4) was later detained by ICE in January 2026 after parole expired. ECF 6 at 3–4.

III. ARGUMENT

A. This Court has jurisdiction under 28 U.S.C. § 2241 to decide whether DHS is detaining Petitioner under the wrong statute.

Section 1252(g) does not bar review of a pure detention-authority challenge. Respondents contend 8 U.S.C. § 1252(g) strips jurisdiction because this case supposedly “arises from” the decision to commence removal proceedings. ECF 6 at 5–7. But Petitioner does not challenge the commencement of proceedings; he challenges the detention authority DHS claims it is using to require mandatory detention without a bond hearing. See ECF 1 at 1 ¶2; at 2 ¶¶3–7; at 6–7 ¶¶30–45.

Section 1252(b)(9) does not channel this claim because it is independent of the merits of removal. Respondents assert § 1252(b)(9) bars any claim “tied to removal proceedings.” ECF 6 at 4–5. But Petitioner seeks review of custody classification—i.e., whether the Government may deny him the bond hearing procedures that exist when detention is under § 1226(a). ECF 1 at 1 ¶2; at 2 ¶¶3–7; at 6–8 ¶¶35–45.

Essentially, Respondents ask the Court to hold there a district court cannot assess whether DHS is holding a person under the wrong detention statute unless and until a final removal order is entered. That position is incompatible with habeas’ core function as a prompt remedy for unlawful restraint.

B. Respondents’ “arriving alien always equals § 1225(b)(2) mandatory detention” theory is wrong as applied to a parolee arrested in the interior.

Petitioner alleges § 1225(b) is provide DHS with inspection related detention authority. Conversely § 1226(a) governs arrest/detention and discretionary release pending a decision on

removal where DHS has already allowed the person into the country and later re-arrests in the interior ECF 1 at 6–7 ¶¶35–43.

Respondents’ approach relies heavily on a regulatory definition and on the premise that parole was granted under “8 U.S.C. § 1182(b)(5).”¹ ECF 6 at 3; see also *id.* at 9 (repeating the same citation).

Respondents’ argument hinges on the regulatory definition of “arriving alien” and the assertion that this label persists even after parole. But *Vasquez-Rosario v. Noem*, No. 25-cv-7427 (E.D. Pa. Jan. 26, 2026) addressed that exact situation.

“On or about November 8, 2022, Vasquez-Rosario crossed the United States border near Calexico, California, where he voluntarily surrendered and was apprehended by the Department of Homeland Security (“DHS”). ECF No. 1-2 at 1; ECF No. 1 ¶ 2.2 Vasquez-Rosario remained in DHS’s custody for approximately eight days. Id. On November 14, 2022, Vasquez-Rosario received a Notice to Appear for a hearing on October 2, 2024, at the Philadelphia Immigration Court. Id. ¶ 4; ECF No. 1-2 at 1. The Notice to Appear contained a box that was checked for “[y]ou are an arriving alien.” Id. Thereafter, Vasquez-Rosario was paroled into the United States by means of DHS’s discretionary parole authority under 8 U.S.C. § 1182(d)(5), Immigration and Nationality Act (“INA”) § 212(d)(5).”

Vasquez-Rosario v. Noem, No. 25-cv-7427, slip op. at 2 (E.D. Pa. Jan. 26, 2026) (Kenney, J.)

These facts are nearly identical to Mr. Alekseev’s Petition. Mr. Alekseev presented and was detained at the southern border; just like Vasquez-Rosario. Mr. Alekseev was issued an NTA improperly designating Mr. Alekseev as an “arriving alien”; just like Vasquez-Rosario. Mr. Alekseev was paroled at the border; just like Vasquez-Rosario. This honorable Court should Order DHS to conduct a bond hearing for Mr. Alekseev; just like Vasquez-Rosario.

¹ Respondents’ Opposition cites “8 U.S.C. § 1182(b)(5)” as the source of parole authority. ECF 6 at 3, 9. Parole authority is codified at 8 U.S.C. § 1182(d)(5)(A).

Even assuming the label “arriving alien” persists for certain procedural purposes, the label does not answer the detention-statute question presented here: whether a person who (i) was encountered by DHS at the border, (ii) granted parole into the United States, (iii) released into the community, and (iv) later arrested in the interior is detained under § 1225(b) or § 1226(a).

The INA’s structure differentiates border inspection detention from post-entry arrest/detention pending a removal decision. Congress set up two different frameworks: § 1225 addresses inspection/processing of applicants at or near entry; § 1226 addresses arrest/detention and potential release “pending a decision on whether the alien is to be removed.” ECF 1 at 6–7 ¶¶35–43.

Respondents’ “return to the status that existed at the time of parole” is not a statutory command. Respondents assert that when parole “expires,” Petitioner “returns” to mandatory § 1225(b)(2) detention ECF 6 at 3. But § 1225(b)(2) does not say that parole years earlier permanently locks in mandatory detention whenever DHS later decides to arrest in the interior. Section 1226(a), by contrast, expressly contemplates detention and discretionary release authority during the pendency of removal proceedings—precisely the posture here. ECF 1 at 2 ¶¶3–7; at 7 ¶¶38–43.

For these reasons, the Court should declare that § 1226(a) governs Petitioner’s detention and order Respondents to provide a prompt custody redetermination (bond) hearing before an Immigration Judge (or release Petitioner absent such a hearing).

C. Due process (preserved): categorical denial of any bond hearing is unconstitutional at minimum where DHS previously released Petitioner into the community.

Even if the Court were to treat the statute as ambiguous, the Constitution requires meaningful process when the Government restrains liberty. The Petition alleges that where DHS inspected and paroled Petitioner into the United States and he lived in the community before being taken into custody, due process requires, at minimum, a prompt hearing before a neutral adjudicator to assess flight risk and danger. ECF 1 at 8 ¶¶46–51.

Respondents respond largely by invoking generalized plenary-power language and suggesting Petitioner does not challenge the reasonableness of detention. Resp’ts Opp’n at 13–

14. But Petitioner's due-process claim is more basic: misclassification and categorical denial of any bond process where § 1226(a) applies (or where the Constitution independently requires process).

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court: (1) reject Respondents' jurisdictional arguments; (2) declare that INA § 236(a), 8 U.S.C. § 1226(a), governs Petitioner's detention; and (3) order Respondents to provide a prompt custody redetermination (bond) hearing before an Immigration Judge, or release Petitioner absent such a hearing.

Date: February 5, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 4, 2026, I filed the foregoing Petitioner's Reply in Support of Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order / Preliminary Injunction through the Court's CM/ECF system, which will send notice of such filing to all counsel of record and registered CM/ECF users.

Date: February 5, 2026

Respectfully submitted,

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