UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

DILSON JOEL GRATEROL RUIZ, *Petitioner*, *v.* DONALD J. TRUMP, in his official capacity as President of the United States; PATRICIA HYDE, in her official capacity as Acting Boston Field Office Director, Immigration and Customs Enforcement, Enforcement and Removal Operations; DAVID. W. JOHNSTON, Vermont Sub-Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations; TODD M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; MARCO RUBIO, in his official capacity as Secretary of State; PAMELA BONDI, in her official capacity as U.S. Attorney General; and GREG HALE, Superintendent, Northwest State Correctional Facility, *Respondents*.	)	Case No. 2:26-cv-12

FEDERAL RESPONDENTS' OPPOSITION
TO PETITION FOR WRIT OF HABEAS CORPUS

Donald. J. Trump, in his official capacity as President of the United States; David Wesling, in his official capacity as Acting Field Office Director of the Boston Field Office of United States Immigration and Customs Enforcement ("ICE")[1]; David Johnston, in his official capacity as an

[1] David Wesling is currently the Acting Field Office Director of the Boston Field Office of ICE, and he is therefore properly substituted for his predecessor in office, Patricia Hyde. *See* Fed. R. Civ. P. 25(d).

ICE Supervisory Detention and Deportation Officer; Todd Lyons, in his official capacity as Acting Director of ICE; Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security ("DHS"); Marco Rubio, in his official capacity as Secretary of State; and Pamela Bondi, in her official capacity as United States Attorney General (collectively, "Federal Respondents") respectfully submit this memorandum of law in opposition to Dilson Joel Graterol Ruiz's Petition for Writ of Habeas Corpus, dated January 25, 2026 (ECF Doc. No. 1) ("Petition").

PRELIMINARY STATEMENT

Petitioner is a noncitizen who is currently in ICE custody in Vermont. He seeks a writ of habeas corpus requiring his immediate release (or, in the alternative, a bail or bond hearing). In short, no such writ should issue in this case because, under the settled law of this Circuit, Petitioner is properly considered an inadmissible arriving alien seeking admission at the border, and his civil detention is therefore mandated by 8 U.S.C. § 1225(b) and otherwise lawful under the Immigration and Nationality Act ("INA"), as amended, and the Constitution.

As discussed in more detail herein, Petitioner was initially taken into custody at the border, as an arriving alien seeking admission to the United States without a valid entry document. However, rather than subject Petitioner to expedited removal from the country under § 1225(b)(1), DHS exercised its discretion to temporarily parole Petitioner into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and the agency simultaneously placed him into removal proceedings before an Immigration Judge. That was in 2024. In 2025, DHS exercised its discretion to terminate Petitioner's parole under § 1182(d)(5)(A), which expressly provides that, when DHS so terminates an alien's parole, 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*." (Emphasis added).

The Second Circuit has repeatedly instructed that where, as here, an arriving alien is paroled into the United States under § 1182(d)(5)(A), the alien remains constructively detained at the border and, when their parole expires or is terminated, their status reverts to that of an arriving alien seeking admission at the border (notwithstanding their physical presence within our borders). In light of such and other binding precedent, Petitioner's current status is inescapably that of an arriving alien seeking admission to the United States at the border without a valid entry document, and he was therefore properly "returned to the custody from which he was paroled" under § 1182(d)(5)(A), namely, the DHS custody expressly required by § 1225(b) in the case of arriving aliens and other applicants for admission.

For these reasons and others discussed herein, the Petition before the Court lacks merit and should be denied. In any event, Petitioner's bid for immediate release from custody is improper. If this Court should disagree with Federal Respondents and conclude that Petitioner is subject to detention under 8 U.S.C. § 1226(a) and, hence, entitled to a bond hearing before an Immigration Judge, the proper habeas remedy would be to order that he be provided such a hearing. Immediate release is particularly inappropriate here because, as discussed herein, Petitioner has a criminal history that may bear upon his suitability for release, and such matters are regularly addressed by Immigration Judges in the context of bond hearings.

RELEVANT BACKGROUND

A. Relevant Factual History

Petitioner is a native and citizen of Venezuela. Pet. at ¶ 1. He traveled from Venezuela to Matamoros, Mexico with aspirations of immigrating to the United States, and, on May 2, 2024, he presented to United States Customs and Border Patrol ("CBP") officers at the Brownsville-Gateway land port of entry to the United States, seeking admission to this country. *See* Pet. at ¶ 2; Ex. A (Form I-862 Notice to Appear).

CBP then and there determined that Petitioner lacked a valid entry document, so he was taken into DHS custody and charged with being inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I). Ex. A at 4. However, rather than subject him to expedited removal under 8 U.S.C. § 1225(b)(1), the agency exercised DHS's discretion to temporarily parole Petitioner into the United States pursuant to § 8 U.S.C. § 1182(d)(5)(A). Pet. at ¶ 2; Ex. B (Form I-94 Arrival Record). Petitioner was simultaneously issued a Form I-862 Notice to Appear before an Immigration Judge on July 31, 2024, in Massachusetts (where he intended to reside with family) to defend against the charge of inadmissibility. *See* Ex. A; Pet. at ¶ 3.

On May 1, 2025, Petitioner became presumptively time-barred from seeking asylum and withholding from removal, as the INA expressly provides for a one-year-from-date-of-entry deadline by which any Form I-589 Application for Asylum and Withholding from Removal must be submitted (unless the applicant demonstrates, to the satisfaction of DHS, either the existence of changes circumstances that materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing the application). *See* 8 U.S.C. § 1158(a)(2)(B).[2]

In or about May 2025, DHS exercised its discretion to terminate Petitioner's parole under § 1182(d)(5)(A), and it also terminated his parole-based work authorization. *See, e.g.,* Pet. at ¶ 7; Ex. C (Records Pertaining to Revocation of Parole-Based Employment Authorization).

On August 24, 2025, Petitioner was arrested in Massachusetts by local law enforcement and charged with three crimes under Massachusetts law, including a felony crime of violence. Ex. D (Excerpt from Criminal History); *see* Pet. at ¶ 9. More specifically, he was charged with:

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[2] Petitioner alleges that he *intends* to apply for asylum, and he acknowledges a one-year deadline for doing so, but he appears to be operating on the assumption that the one-year clock began to run upon the termination of his parole, rather than the date on which he last entered the United States. *See* Pet. at ¶ 7. In any event, it appears from the Petition that, since being paroled into the United States on May 2, 2024, Petitioner has not applied for any immigration benefit or status that would permit him to be admitted to this country or otherwise avoid removal pursuant to his pending charge of inadmissibility under § 1182(a)(7)(A)(i)(I). *See* Pet. at ¶ 27.

(1) assault and battery of a family/household member; (2) assault with a dangerous weapon; and (3) threat to commit a crime against the person or property of another. Contrary to what he now alleges in support of his Petition, Petitioner was *not acquitted* of these charges; the charges were dismissed without prejudice for lack of prosecution when Petitioner was taken into ICE custody. *Compare* Pet. at ¶¶ 8-9 *with* Ex. D.

On January 14, 2026, Petitioner was taken into ICE custody in Massachusetts. Pet. at ¶ 8. He was thereafter transported to Vermont, where he currently remains in custody at the Northwest State Correctional Facility. *Id.*

B. Relevant Legal Framework

1. Historical Overview of the Immigrations Laws and the Elimination of Preferential Treatment for Persons Who Were Not Lawfully Admitted

Our immigration laws have long authorized immigration officials to charge noncitizens as removable from the country, to arrest noncitizens subject to removal, and to detain noncitizens during their removal proceedings. *See, e.g.*, *Abel v. United States*, 362 U.S. 217, 232-37 (1960). With specific regard to detention, Congress enacted the INA, as amended, to serve as a multi-layered statutory framework governing, among other things, the detention of noncitizens pending a decision on their removal. *See generally* 8 U.S.C. §§ 1225, 1226.

Prior to 1996, the INA provided for two types of proceedings to adjudicate the legal status of noncitizens: "deportation" proceedings and "exclusion" proceedings. *Ibragimov v. Gonzales*, 476 F.3d 125, 130 n.11 (2d Cir. 2007); *Chen v. Almodovar*, No. 25-CV-8350, 2025 WL 3484855, at *3 (S.D.N.Y. Dec. 4, 2025). Noncitizens who arrived at a port of entry were placed in exclusion proceedings and were subject to mandatory detention absent a discretionary grant of humanitarian parole. *see, e.g.*, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1226(b) (1994)). In contrast, noncitizens who managed to successfully, even if

illegally, effect an "entry" into the United States were placed in deportation proceedings, and, unlike those in exclusion proceedings, "they were entitled to request release on bond." *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010); *Ibragimov*, 476 F.3d at 130 n.11; *Chen*, 2025 WL 3484855, at *3.

This pre-1996 INA framework had an "unintended and undesirable consequence" of creating a statutory scheme under which "'non-citizens who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' while non-citizens who actually presented themselves to authorities [at a port of entry] were restrained by 'more summary exclusion proceedings.'" *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (3rd Cir. 2012) (quoting *Hing Sum*, 602 F.3d at 1100); *see also* H.R. Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") (noting that "illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry").

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). Among other things, that Act added 8 U.S.C. § 1225(a)(1) to the INA to "ensure that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA—in the position of an 'applicant for admission.'" *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc) (quoting 8 U.S.C. § 1225(a)(1) and citing House Rep. at 225-29). Section 1225(a)(1) provides, in pertinent part, that "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." Congress thus eliminated the INA's prior focus on "entry" and replaced it with a focus on "admission," defined as "the lawful entry of the

alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A); *Ibragimov*, 476 F.3d at 130 n.11.

2. Humanitarian Parole Pursuant to 8 U.S.C. § 1182(d)(5)(A)

"Parole [in the INA context] is an administrative practice whereby the government allows an arriving alien who has come to a port-of-entry without a valid entry document to be temporarily released from detention and to remain in the United States pending review of [] his immigration status." *Ibragimov*, 476 F.3d at 131. In this regard, the INA provides, in pertinent part, as follows:

> The Secretary of DHS may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien 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). As is plain from the face of that statute, "[s]uch parole does not constitute an admission," and, "[a]lthough paroled aliens physically enter the United States for a temporary period, they nevertheless remain constructively detained at the border . . . ." *Ibragimov*, 476 F.3d at 132, 134.

3. Detention of Applicants for Admission Under 8 U.S.C. § 1225

Section 1225 defines "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . ." 8 U.S.C. § 1225(a)(1). The "arriving aliens" subgroup includes any "applicant for admission coming or attempting to come into the United States at a port-of-entry," and such "an arriving alien remains an arriving alien even if paroled pursuant to [§ 1182(d)(5)(A)] . . . ." 8 C.F.R. § 1.2.

Section 1225(a) further provides that "[a]ll aliens . . . who are applicants for admission or otherwise seeking admission . . . shall be inspected by immigration officers" to determine their admissibility under the INA. 8 U.S.C. § 1225(a)(3). Upon such inspection, all applicants for admission generally "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). And, "read most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297 (cleaned up). Humanitarian parole under § 1182(d)(5)(A) is the *only* exception to the detention mandated by § 1225(b). *Id.* at 300.

Section 1225(b)(1), which provides a track for *expedited* removals, applies generally to arriving aliens who are found to be inadmissible under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7) due to certain fraud or willful misrepresentation, or lack of valid documentation. *See* 8 U.S.C. § 1225(b)(1)(A)(i). The Attorney General is also permitted to designate certain other aliens for expedited removal if they: have not been admitted or paroled; are inadmissible under §§ 1182(a)(6)(C) or 1182(a)(7); and have not affirmatively shown that they have been present in the United States continuously for the preceding two years. *See* 8 U.S.C. § 1225(b)(1)(A)(iii).

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.*; *see, e.g.*, *Chen*, 2025 WL 3484855, at *3. Under § 1225(b)(2), an individual "who is an applicant for admission" "shall be detained" for full (*i.e.*, non-expedited) removal proceeding pursuant to 8 U.S.C. § 1229a, "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *see, e.g.*, *Chen*, 2025 WL 3484855, at *3; *Hurtado*, 29 I. & N. Dec. at 223; *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025).

The detention mandated by § 1225(b)(2) extends throughout an applicant for admission's removal proceedings. *See Jennings*, 583 U.S. at 302. In such proceedings, an Immigration Judge shall decide the inadmissibility or deportability of the alien. *See* 8 U.S.C. § 1229a(a)(1). Such proceedings are the "sole and exclusive procedure for determining whether [the subject] alien may be admitted to the United States." 8 U.S.C. § 1229a(a)(3).

4. Detention of Other Aliens Under 8 U.S.C. § 1226

Section 1226 provides generally for arrest and detention of an alien on a warrant pending a decision on whether the alien is to be removed from the United States. 8 U.S.C. § 1226(a). The statute makes no reference to arriving aliens or other applicants for admission.

Under 8 U.S.C. § 1226(a), the government may detain an alien during removal proceedings, release the individual on bond, or release the individual on conditional parole, and an alien may request a custody redetermination by an Immigration Judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the Immigration Judge may continue detention or release the alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1).

STANDARD OF REVIEW

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions unless Congress has separately stripped the court of jurisdiction to hear the claim. To warrant a writ of habeas corpus, the burden is on the petitioner to prove that his custody is in violation of the Constitution, laws, or treatises of the United States. *See* 28 U.S.C. § 2241(c)(3); *Walker v. Johnston,* 312 U.S. 275, 286 (1941); *Skaftourous v. United States*, 667 F.3d 144, 158 (2d Cir. 2011).

ARGUMENT

A. Petitioner's Detention Is Mandated by 8 U.S.C. § 1225(b).

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Here, an examination of the relevant statutory text supports Federal Respondents' position that Petitioner is properly considered an arriving alien seeking admission to the United States at the border, and that his detention is therefore required by § 1225(b).

1. Petitioner Is an Arriving Alien Seeking Admission.

As discussed above, Petitioner was initially taken into custody at the Brownsville-Gateway land port of entry to the United States as an arriving alien seeking admission to this country without a valid entry document. Ex A. He was indisputably an "applicant for admission" under § 1225 by virtue of his *arriving* in the United States. 8 U.S.C. § 1225(a)(1). And, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry," 8 C.F.R. § 1.2, he was more specifically an "arriving alien." *Id.*; *Ibragimov*, 476 F.3d at 134. Petitioner was also indisputably seeking admission in an active and affirmative sense. To be sure, he concedes that he was paroled into the United States, Pet. at ¶ 2 and "the parole statute only provides [DHS] with discretion to parole into the country 'alien[s] *applying for admission* to the United States.'" *Ibragimov*, 476 F.3d at 135 n.14 (quoting 8 U.S.C. § 1182(d)(5)(A)).

The foregoing analysis is not altered by the fact that Petitioner was paroled into the country, and Petitioner is thus still properly considered to be an arriving alien seeking admission at the border without a valid entry document. As the Second Circuit explained in *Ibragimov*: "[t]he terms of [§ 1182(d)(5)(a)] reflect the well-settled principle that Congress did not intend for parole of an alien to constitute an alien's legal entry or admission to the United States." 476 F.3d at 134 (citing *Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958)).

"Instead, parole is a means by which the government allows aliens who have arrived at a port-of-entry to temporarily remain in the United States pending the review and adjudication of their immigration status." *Id.* "Although paroled aliens physically enter the United States for a temporary period, *they nevertheless remain constructively detained at the border, i.e., legally unadmitted, while their status is being resolved by immigration officials.*" *Id.* (citing *Leng May Ma*, 357 U.S. at 191); *see Leng May Ma*, 357 U.S. at 191 (admonishing that the parole of aliens "was never intended to affect an alien's status, and to hold that [a] petitioner's parole placed her legally 'within the United States' is inconsistent with the congressional mandate, the administrative concept of parole, and the decisions of th[e] Court").

The Second Circuit's decision in *Ibragimov* is controlling here and warrants discussion. That case concerned a petitioner who, despite having initially been admitted to the United States on a visa, overstayed his visa and lost his lawful immigration status. 476 F.3d at 129. He then applied (from within the United States) for a marriage-based adjustment of status that would have permitted him to overcome his removability, and, while that application was pending, he left and returned to the United States through a grant of advance parole, *i.e.*, a representation that parole should be granted upon his return to the country. *Id.* His application for an adjustment of status was denied, and the government thereafter terminated his parole and later charged him with being inadmissible as an *arriving alien seeking admission without a valid entry document*, despite the fact that he had last entered the country as a parolee *more than three years back*. *Id.* at 129.

The petitioner in *Ibragimov* moved to terminate his removal proceedings, arguing principally that he was not an arriving alien because he had been paroled years back, but an Immigration Judge expressly rejected that position and ordered the petitioner removed, and the Board of Immigration Appeals ("BIA") affirmed that order of removal. *Id.* at 130.

In affirming that decision of the BIA, the Second Circuit squarely considered and rejected the petitioner's argument that he could not be considered an arriving alien because he had been paroled years back and had thus already arrived and was no longer seeking inspection. *Id.* at 136; *see id.* at 132-37. The Court recognized that an arriving alien ultimately remains an arriving alien even if paroled, and that, "upon the termination of an alien's parole, the alien 'shall be restored to the status that he or she had *at the time of parole*.'" *Id.* at 136 (quoting 8 C.F.R. § 212.5(e)(2)(i)). The Court accordingly held that, when the petitioner's parole was terminated, "his status reverted to that which he held at the time he was paroled into the United States [three years back]—namely, "that of an 'arriving alien' *seeking admission* at our borders." *Id.* at 137 (emphasis added); *Cf. United States v. Balde*, 943 F.3d 73, 84 (2d Cir. 2019) ("Parole does not change parolees' immigration status: they remain 'at the border' for the purposes of immigration law . . . .") (quoting *Ibragimov*, 476 F.3d at 134); *see Walizada v. Trump*, No. 25-CV-768, 2025 WL 3551972, at *15 (D. Vt. Dec. 11, 2025) (Reiss, C.J.) (recognizing *Ibragimov* as binding precedent on this issue).

2. Section 1225(b) Requires that Petitioner Be Detained.

Because Petitioner is still properly considered an arriving alien seeking admission at the border without a valid entry document in violation of § 1182(a)(7)(A)(i)(I), he is plainly subject to mandatory detention pursuant to § 1225(b) pending the adjudication of his immigration status, just as he was so when initially taken into custody in May 2024. 8 U.S.C. § 1225(b). To be sure, the parole statute expressly provides that, when DHS exercises its discretion to terminate a grant of parole thereunder, the subject alien "*shall forthwith return or be returned to the custody from which he was paroled* . . . ." 8 U.S.C. § 1182(d)(5)(A) (emphasis added). *See Ofosu v. McElroy*, 98 F.3d 694, 700-01 (2d Cir. 1996) (discussing how a noncitizen who was detained as an inadmissible arriving alien before being temporarily paroled into the United States was required to surrender to immigration authorities upon the termination of his parole).

B. Petitioner's Detention Does Not Violate the Constitution.

Because Petitioner is properly detained under § 1225(b), which mandates detention during removal proceedings, he is not entitled to a bond hearing. He claims that his lack of access to a bond hearing violates his right to due process, *see, e.g.*, Pet. at ¶ 60, but it is well settled that "[d]etention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)).

Indeed, individuals like Petitioner "who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border.'" *Dept' of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (citing *Shaughnessy*, 345 U.S. at 215). For such individuals, due process requires only "those rights regarding admission that Congress has provided by statute." *Id.* at 140. Under the system Congress devised, detention is mandatory for applicants for admission in Petitioner's situation, and the Supreme Court has recognized that detention is "a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523. In *Demore*, the Supreme Court upheld the constitutionality of a statute that requires mandatory detention during removal proceedings without access to bond hearings. The Court there "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," *id.* at 523, and it reaffirmed its "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526.[3]

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[3] In *Demore*, the Supreme Court explained that, unlike the potentially indefinite detention at issue in *Zadvydas v. Davis*, 533 U.S. 678 (2001), which was a case that concerned the detention of aliens *following a final order of removal*, detention during removal proceedings has a "definite termination point" and therefore does not implicate the same due process concerns. 538 U.S. at 529.

Petitioner does not appear to specifically challenge the duration of his detention to date, nor can he credibly do so, as he has been detained for little more than two weeks at this juncture. *See, e.g.*, *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932, at *5 (W.D.N.Y. Dec. 4, 2025) ("[G]iven the relatively short duration of Petitioner's detention—approximately three months—any constitutional argument for habeas relief separate from the statutory one raised here, *if possible*, would be premature.") (internal citations omitted).

To the extent that Petitioner has alleged certain medical needs that require special attention not readily available here in Vermont, it is Petitioner who has frustrated ICE's ability to transfer him to another medical facility by successfully petitioning this Court *ex parte* to enjoin ICE from removing Petitioner from this District. *See* ECF Doc. Nos. 2, 4. It is far from novel for individual detainees to have medical needs that may require special care, and ICE should be permitted to transfer Petitioner to a more suitable facility if doing so is necessary or otherwise appropriate.[4]

C. Any Potential Relief Should be Limited to a Bond Hearing.

Petitioner asks this Court to order his immediate release or, in the alternative, to conduct a bail hearing or order that he be provided an individualized bond hearing before an Immigration Judge within seven days. *See* Pet. at 17. Should this Court disagree with Federal Respondents and determine that Petitioner is subject to detention pursuant to § 1226(a), rather than § 1225(b), the appropriate remedy would be to order that Petitioner be provided an individualized bond hearing before an Immigration Judge, not immediate release or a bail hearing. Immediate release is particularly inappropriate here because, as discussed above, Petitioner has a criminal history that may bear upon his suitability for release, and such matters are regularly addressed by Immigration Judges in the context of bond hearings.

[4] There is little to no medical evidence actually before the Court, so the medical issues are difficult to assess.

Although some courts have ordered the immediate release of a detainee held in violation of due process, "the comfortable majority position—both historically and in recent weeks—is to instead require a bond hearing before an [Immigration Judge]." *Lopez-Arevelo v. Ripa*, No. 25-CV-337, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025). As the court noted in *Lopez-Arevelo,* a petitioner's rights under § 1226(a), if any, "are not violated by the very fact of his detention. Rather, they are violated because he has been detained without a bond hearing that accords with due process." *Id.* Courts across the country, including this Court, have thus ordered that a bond hearing be held, rather than immediate release, upon concluding that a petitioner was subject to detention under § 1226(a). *See, e.g., Lopez v. Trump*, No. 25-CV-863, 2025 WL 3264151, at *6 (D. Vt. Nov. 17, 2025); Opinion and Order, *Piedrahita-Sanchez v. Turek*, No. 25-CV-875 (D. Vt. Nov. 14, 2025) (ECF Doc. No. 13), at 18; *Yapangui v. Hale*, No. 25-CV-884, 2025 WL 3207070, at *8 (D. Vt. Nov. 17, 2025); Order, *Lala Inamagua v. Hale*, No. 25-CV-892 (D. Vt. Dec. 1, 2025) (ECF Doc. No. 19), at 6; *Rashid v. Hale*, No. 25-CV-732 (D. Vt. Oct. 27, 2025) (ECF Doc. No. 13), at 32; *but see, e.g.*, Order, *Lopez-Niz v. Hale*, No. 25-CV-912 (D. Vt. Dec. 30, 2025) (ECF Doc. No. 15) (ordering immediate release).

For the foregoing reasons, habeas relief is unwarranted, and the Petition should be denied. However, even if the Court were to find that Petitioner has met his burden to justify judicial intervention, the Court should order that Petitioner be afforded a bond hearing before an Immigration Judge consistent with § 1226(a), not immediate release or a bail hearing.

CONCLUSION

For the reasons discussed above, the Court should (1) deny the Petition for a Writ of Habeas Corpus (ECF Doc. No. 1) and (2) dissolve the Court's Temporary Restraining Order of January 26, 2026 (ECF Doc. No. 4).

Dated at Burlington, in the District of Vermont, this 30th day of January, 2026.

Respectfully submitted,

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