UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ISLAM SOKOLAEV,

Petitioner,

Case No.: 2:26-cv-506

v.

JAMAL L. JAMISON, *et al.*

Respondents.

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

I. INTRODUCTION

In response to Respondents' answer to the Court (Dkt. 3), Petitioner submits this reply brief. In sum, Respondents offer no case-specific facts or any reason why Petitioner was detained, who was a productive and law-abiding member of our society prior to his re-detention.

Respondents note that this petition is "distinguishable from the vast majority of petitions recently considered by this district court involving 'applicants for admission' in the wake of the Board of Immigration Appeals' (BIA) decision in *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025), which is not implicated here." ECF 3, p. 1. Respondents are correct that the *Yajure Hurtado* holding which has been rejected in over 1,600 cases, is not applicable here.

In the instant matter, however, the Respondents' position has been rejected in 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 (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*, 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. 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 3, p. 5. Respondents argue that three such provisions prevent this

Court from hearing the petitioner's claim. As numerous courts have already found, these arguments fail.

a. 8 U.S.C. § 1252(g)

Respondents first point to section 1252(g), arguing it strips this Court of jurisdiction to review the decision to detain the petitioner. 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 section 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 3, p. 7.

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 section 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. 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.

Respondents cite to *J.E.F.M. v. Lynch*, 837 F.3d 1026 (9th Cir. 2016), in support of their claim that "[t]aken 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. Respondents' reliance is misplaced; they have again cherry-picked select wording without analysis, as they did with *AADC*. 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 re-affirmed 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 section 1252(b)(9) is similar to that in section 1252(g)—the words "arising from," which the Supreme Court in *AADC* interpreted narrowly, appear again. Indeed, the Court later held in *Jennings* that section 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. Just like the petitioner in *Jennings*, Petitioner here is not "challenging the decision to detain [him] in the first place or to seek removal; and [he is] not even challenging any part of the process by which [his] removability will be determined." *Id.* at 294. Rather, Petitioner is challenging his detention under section 1225 and his entitlement to a bond hearing. *Jennings* holds that section 1252(b)(9) does not bar this Court from hearing his claim.

Likewise, the Third Circuit's recent decision in *Khalil v. President* does not affect the law at issue in this case. No. 25-2162, 2026 WL 111933, at *1 (3d Cir. Jan. 15, 2026). In *Khalil*, the Third Circuit narrowed the holding in *E.O.H.C.* The petitioner in *Khalil* was a lawful permanent resident of the United States, who was an "outspoken advocate." *Id.* The Secretary of State determined that he was removable under an INA as a noncitizen whose "presence or activities in the United States . . . would have potentially serious adverse foreign policy consequences." *Id.* at *2. The petitioner was arrested and served with a Notice to Appear, which charged him as removable under the foreign-policy provision and on the ground that he procured his status by fraud. *Id.* The petitioner's habeas petition argued the government "had adopted an unlawful policy of targeting immigrants for pro-Palestinian speech; that the foreign-policy provisions of the INA were unconstitutionally vague as applied; that Khalil's detention was impermissibly punitive; and that the fraud charge was impermissibly retaliatory under the First Amendment and unlawfully departed from the government's own rules and procedures." *Id.* at *3. The .district court found it had jurisdiction, granted Petitioner's release, and entered a preliminary injunction. *Id.* at *4.

The Third Circuit vacated the district court's ruling, holding that Section 1252(b)(9) stripped the district court of subject matter jurisdiction. *Id.* at *11. The Court found that in that case, the issues raised in the habeas petition were "inextricably linked" to his removal proceedings. *Id.* at *9. In the habeas petition, the petitioner challenged "both his removal and his detention pending removal proceedings, claiming that both are unlawful on various grounds." *Id.* at *8. The Court found that in that case, although the petitioner "also challenges his detention, his arguments against it are identical to his arguments against removal," and could obtain meaningful resolution of the legal questions in a petition for review ("PFR"). *Id.* at *11.

Such is not the case here. Unlike in *Khalil* (which involved a lawful permanent resident who could only be detained under limited provisions as a lawful permanent resident), Petitioner's challenge here is not inextricably linked to his removal proceedings. Petitioner is not challenging his removal proceedings in any way, and if this petitioner were granted, his removal proceedings would continue on a non-detained docket.

Petitioner is also not challenging the Government's authority to detain him pending removal, but rather to detain him without an individualized bond hearing. This issue would not be identical to any issues that he could appeal or Petition for Review ("PFR") in his removal case. *See id.* at *12 (distinguishing *Khalil*'s case from ones that challenged the length of detention without a bond hearing, a claim which "does not get channeled into the PFR review process").;

Kourouma v. Jamison, No. CV 26-0182-KSM, 2026 WL 120208, at *3 (E.D. Pa. Jan. 15, 2026) ("Unlike the challenge to detention in Khalil, Petitioner's challenge here is not 'inextricably linked' to his removal proceedings."); *Giyosov v. Jamison*, No. CV 26-0298, 2026 WL 209839, at *1 (E.D. Pa. Jan. 27, 2026) ("*Khalil* is distinguishable because Giyosov's petition does not present legal or factual questions that can be meaningfully reviewed alongside review of a final order of removal"); *Moreno Ramirez v. Jamison*, No. 2:25-CV-7346, 2026 WL 196474, at *5 (E.D. Pa. Jan. 26, 2026) ("claim is "wholly collateral" to the removal process"). Accordingly, section 1252(b)(9) does not bar this Court from hearing this claim.

c. 8 U.S.C. § 1252(a)(2)(B)(ii)

Respondents next argue that section 1252(a)(2)(B)(ii) shields from judicial review discretionary decisions like what charges of inadmissibility to lodge. 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).

Respondents fail to meet their "heavy burden" in this respect. Again, Petitioner is not challenging Respondents' "decision to detain him during removal proceedings." Nor is the Petitioner necessarily challenging the "charges of inadmissibility" lodged against him. Petitioner is challenging his detention under section 1225 and his entitlement to a bond hearing. These are threshold legal questions and are "not a matter of discretion." *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

III. REVOCATION OF PAROLE

The government next argues that the Court lacks jurisdiction to review DHS's discretionary decision to terminate parole.

a. Revocation of Parole Not Discretionary

Yet, 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 chose not to do so. We "presume that Congress expressed its legislative intent through the ordinary meaning of the words it chose to use." *United 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.

Here, however, when making a decision based on the statute and the regulations, there are rules and criteria for the revocation of Petitioner's parole and his related re-detention. 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.

b. 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)).

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. *See Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025); *Padilla v. U.S. Immigr. & Customs Enf't*, 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 thus, the purpose of his parole has not been served. Respondents can point to no other reason for the revocation of Petitioner's parole.

IV. DUE PROCESS

Respondents further argue that Petitioner's detention does not violate due process. ECF 3, p. 18. In this case, Petitioner has lived freely in the United States with his family since he entered in December 2024. His presence in the United States was brought about by Respondents themselves, who on December 22, 2024, analyzed Petitioner's individualized facts and circumstances, and thereafter granted him permission to lawfully enter the United States while he 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 23, 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 "[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. ECF 3, p. 19.

"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." *Matthews v. Eldridge*, 424 U.S. 319, 348 (1976). While Respondents are correct that Petitioner was an arriving alien in December 2024, when he arrived at a point-of-entry, Respondents ignore the fact that Petitioner's constitutional rights were solidified when he was 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*, 533 U.S. 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). Respondents' 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)) 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 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. Based on Petitioner's individualized facts and circumstances, Petitioner was granted permission to lawfully enter the United States and given humanitarian parole 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. Further, "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. The unilateral decision by the ICE to detain him on January 23, 2026, and without notice to Petitioner, was to apply a different statutory framework to Petitioner's circumstances despite earlier determining otherwise, now leaving 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 (he was detained while attending one such appointment). 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.

V. SECTION 1226, NOT 1225 GOVERNS PETITIONER'S DETENTION

Next the Government argues that regardless of the parole revocation, Petitioner "was—and remains—an inadmissible arriving alien" and thus subject to mandatory 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 22, 2024, 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, 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."); *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)).

The mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended. *See, e.g.*, *Qasemi v. Francis*, No. 25-cv-10029-LJL, 2025 WL 3654098 (S.D.N.Y. Dec. 17, 2025) (finding that the petitioner in that case, whose parole had terminated, was "an 'applicant for admission' within the meaning of Section 1182(d)(5)(A)" but was not "a noncitizen 'arriving in the United States' within the meaning of Section 1225(b)(1)(A)(i)").

Several courts, including courts in the Eastern District of Pennsylvania, have also found that after an individual is granted parole and spends time within the United States, the person is no longer subject to the mandatory detention provisions of Section 1225(b)(1) and instead is subject to discretionary detention under Section 1226 just like other applicants for admission. *See e.g., Sadykov v. Rose, et al.,* 2:26-cv-00086-JMY (E.D. Pa. Jan. 16, 2026) (providing string cite of

similar cases); *Bustos v. Raycraft*, No. 25-cv-13202, 2025 WL 3022294, at *6 (E.D. Mich. Oct. 29, 2025); *Coalition for Humane Immigrant Rights v. Noem*, 2025 WL 2192986, at *27 (D.D.C. Aug. 1, 2025); *Munoz Materano v. Arteta*, No. 25-cv-6137, 2025 WL 2630826, at *11 (S.D.N.Y. Sept. 12, 2025); *Aviles-Mena v. Kaiser*, No. 25-cv-6783, 2025 WL 2578215, at *4 (N.D. Cal. Sept. 5, 2025).

Respondents' reliance on Contreras v. Oddo, No. 3:25-CV-162, 2025 WL 2104428 (W.D. Pa. July 28, 2025) is also misplaced. ECF 3, p. 14. 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).

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

Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

VI. 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: February 10, 2026

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ISLAM SOKOLAEV,

Petitioner,

Case No.: 2:26-cv-506

v.

JAMAL L. JAMISON, *et al.*

Respondents.

CERTIFICATE OF SERVICE

I, Caitlin Costello, Esq. on February 10, 2026, served a copy of the attached Reply Brief electronically on Respondents via ECF and the document is available for viewing and downloading from the ECF system.

s/Caitlin Costello
Caitlin Costello, Esq.