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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IRAKLI PKHALADZE, Petitioner, v. MICHAEL ROSE, in his official capacity as ICE Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, JAMAL LAWRENCE JAMISON, Warden of the Philadelphia Federal Detention Center, and PAMELA BONDI, in her official capacity as Attorney General of the United States, Respondents.	Civil Action No. 2:26-cv-00509-JFL

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

ARGUMENTS

The Respondents contend that:

(1) Petitioner's Detention is Authorized by 8 U.S.C. § 1225(b)(1),

(2) Petitioner's Detention is Constitutional

For the reasons explained below, contrary to Respondents' contentions, Petitioner's detention does not fall under the mandatory detention provision of Section 1225(b)(1) based on the statutory text. Accordingly, Petitioner is necessarily detained pursuant to Section 1226(a), and his detention by ICE without any notice or opportunity to be heard violates his rights to procedural due process under the Fifth Amendment. Considering Petitioner's weighty liberty interests alongside Respondents' interests in enforcing immigration laws and the substantial risk of erroneous deprivation stemming from ICE's arrest and detention of Petitioner without any notice or opportunity to be heard, Petitioner's detention violates his right to procedural due process.

I. 8 U.S.C. § 1226 Governs Petitioner's Detention

Respondents contend that Petitioner attempted to enter the United States without inspection in 2022 and was not inspected, admitted, or paroled by an immigration officer at the time of that entry. Petitioner was therefore an "applicant for admission" and was accordingly processed for expedited removal under § 1225(b)(1)(A)(i). They further assert that after Petitioner claimed a fear of return to his home country, DHS paroled him from custody pursuant to 8 U.S.C. § 1182(d)(5) to facilitate the credible fear process and, if found to have a credible fear of return, the removal process under 8 U.S.C. § 1229a. This parole has since terminated, meaning Petitioner has now returned to his detention status at the time of his parole—i.e., mandatory detention under § 1225(b)(1)—during the remainder of his removal proceedings under § 1229(a). Respondents argue that the fact that Petitioner is no longer in expedited removal proceedings does not preclude continued detention under § 1225(b)(1).

However, federal district courts both within the Eastern District of Pennsylvania and outside that District have rejected the arguments advanced by Respondents in their Response in Opposition to the Petition for Writ of Habeas Corpus, holding that Petitioner does not remain

subject to mandatory detention based on the status he initially held upon entry into the United States after he was paroled, released, and has resided in the country for several years. ("Petitioner was granted parole under 8 U.S.C. § 1182(d)(5); therefore, he is no longer subject to mandatory detention under 8 U.S.C. § 1225(b)." *See Talabadze v. Rose*, No. 26-cv-00360 (E.D. Pa. Jan. 30, 2026), *Sadykov v. Rose*, No. 2:26-cv-00086 (E.D. Pa. Jan. 16, 2026) (collecting dozens of cases)).

Moreover, the statutory authority on which Respondents rely does not establish the principle they wish to assert for the following reasons.

First, as the court explained in *Coalition for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (D.D.C. Aug. 1, 2025) ("Coalition"), Section 1182(d)(5)(A) does not say that parolees "return, upon the termination or expiration of their parole, to the position of an applicant for admission standing at the threshold of entry." 2025 WL 2192986, at *24. Nor does it say that they are "restored to the status that [they] had at the time of parole." (Resp. at 15.) "Rather, the provision says that two things happen to a noncitizen following expiration of parole: (1) he 'shall forthwith return or be returned to the custody from which he was paroled'; and (2) '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.'" *Coalition*, 2025 WL 2192986, at *24 (quoting 8 U.S.C. § 1182(d)(5)(A) (emphasis added)). All the term "applicant for admission" requires is presence in the United States without admission. *See Huamani v. Francis*, No. 25-cv-8110, 2025 WL 3079014, at *3 (S.D.N.Y. Nov. 4, 2025).

Thus, Section 1182(d)(5)(A) suggests that rather than reverting to any prior status, a noncitizen whose parole has expired is treated like the vast majority of undocumented immigrants currently living in the United States who are not subjected to expedited removal. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II) (permitting the Attorney General to designate for expedited removal only those noncitizens who have not been admitted or paroled and have not been "physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility."). *See Rodriguez-Acurio v. Almodovar et al.*, No. 2:25-cv-6065 (Nov. 28, 2025 E.D.N.Y.).

Second, the clause in Section 1182(d)(5)(A) directing that parolees "shall forthwith return or be returned to the custody from which [they were] paroled" does not place Petitioner within the Designation Provision either. *See* 8 U.S.C. § 1182(d)(5)(A). The Supreme Court has

confirmed that "nothing in this text [of Section 1182(d)(5)(A)] . . . affirmatively authorizes detention," so the statute is not an independent authority to detain parolees following the expiration of parole. *Clark v. Martinez*, 543 U.S. 371, 385 (2005). To the contrary, the Supreme Court has stressed, "[Section 1182(d)(5)(A)] provides that, when parole is revoked [or expires]" the noncitizen will 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.*" Id. (emphasis in original).

Here, Section 1182(d)(5)(A) may permit Petitioner to be returned to ICE custody, but his case, which necessarily includes the procedures required before detention, "shall continue to be dealt with in the same manner as that of any other applicant for admission," 8 U.S.C. § 1182(d)(5)(A), and any other applicant for admission residing in the United States for more than three years would be detained under Section 1226, *see, e.g.*, *Huamani v. Francis*, No. 25-cv-8110, 2025 WL 3079014, at *3 (S.D.N.Y. Nov. 4, 2025) (holding that Section 1226 "governs the process of arresting and detaining non-citizens who have already entered the United States pending their removal" (quoting *Jennings*, 583 U.S. at 288)); *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025) (holding that "'*once inside* the United States . . . *an alien present in the country* may still be removed' under Section 1226" (quoting *Jennings*, 583 U.S. at 288)).

Respondents' own actions–granting Petitioner humanitarian parole, issuing a new Notice to Appear on August 27, 2025, and placing him into removal proceedings under Section 240–effectively superseded expedited removal proceedings and the associated mandatory detention regime as to Petitioner. The record does not include any facts showing that Respondents made any effort to return Petitioner to ICE detention at any time between the expiration of his humanitarian parole and until after he had continuously resided in the United States for more than three years.

Whereas expedited removal orders are "usually issued within a few days, if not hours," Petitioner's removal proceedings have been pending for about five months. In effect, "when ICE affirmatively chooses to release an individual on parole, it has made the determination that it no longer intends to fast-track their removal and that it will proceed with the standard removal. *See Make the Rd. New York v. Noem* (D.D.C. Aug. 29, 2025), *Rodriguez-Acurio v. Almodovar et al.*, (Nov. 28, 2025 E.D.N.Y.).

Thus, 8 U.S.C. § 1226 governs Petitioner's detention, not § 1225(b)(1).

II. Petitioner's Detention is Unconstitutional

Respondents' position that Petitioner lacks constitutional protections is erroneous. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property without due process of law," U.S. Const. amend. V., regardless of "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see also *Reno v. Flores*, 507 U.S. 292, 306 (1993). Due process demands that unless a person is "given[ ] notice of the case against [her] and opportunity to meet it," she may not be detained. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. The Due Process Clause "covers noncitizens, whether their presence here is lawful, unlawful, temporary, or permanent." *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020); see also *Yamataya v. Fisher*, 189 U.S. 86, 100–01 (1903) (noncitizen who entered the country in violation of the law cannot be "deprived of [her] liberty" without receiving "due process of law")).

Contrary to Respondents' contentions, *Thuraissigiam* stands for the limited principle that those "at the threshold of initial entry" stand on a different footing for due process purposes than noncitizens "who have established connections in this country." 591 U.S. at 107. Whereas Petitioner was paroled into the interior of the United States, and has been living and working in the country for more than three years, *Thuraissigiam* was "brought by an individual who was apprehended 25 yards from the border and then was subject to continuous detention," *Aviles-Mena*, No. 25-cv-6783, 2025 WL 2578215, at *4 (N.D. Cal. Sept. 5, 2025) (citing *Thuraissigiam*, 591 U.S. at 119) (emphasis added). Therefore, *Thuraissigiam* "merely held that noncitizens 'in [the] respondent's position'—those detained close to the border 'shortly after unlawful entry'—have not yet "effected an entry." *Make the Rd.*, 2025 WL 2494908, at *11 (quoting *Thuraissigiam*, 591 U.S. at 140) (emphasis in original).

Moreover, the passing reference in *Thuraissigiam* to "those paroled elsewhere in the country" is dicta and does not alter this conclusion here. See 591 U.S. at 140 (citing *Mezei*, 345

U.S. at 215). As the district court explained in *Make the Road*, this one reference in *Thuraissigiam* to people on parole reflects a rule originating in the "historical practice of allowing ships containing noncitizens to land in American harbors rather than staying at sea . . . while immigration authorities determined the admissibility of the noncitizens." *Make the Rd.*, 2025 WL 2494908, at *12 n.15.17. Treating parole as akin to being stopped at the border in that situation is consistent with the underlying rationale in *Thuraissigiam* that the power to exclude "foreigners who have never . . . acquired any domicile or residence within the United States" is a "sovereign prerogative." 591 U.S. at 138–39 (emphasis added).

However, unlike Thuraissigiam, Petitioner was paroled into the interior of the United States, has continuously resided and worked here for more than three years, and therefore cannot be analogized to a person stopped within 25 yards of the border. *See Make the Rd.*, 2025 WL 2494908, at *12 (reasoning that while the "government's power 'is at its zenith at the international border,'" the Constitution requires the government to "turn square corners" in the country's interior, which "means affording due process"). Therefore, "[j]ust as *Thuraissigiam* cannot swallow the general rule that those who have effected entry are entitled to due process, neither can the legal fiction that the Court crafted for parolees." Id. at *12 n.15.

For all of these reasons, Petitioner's situation is distinguishable from *Thuraissigiam*, and he has a liberty interest in being free from detention that is afforded procedural due process protection. *Velasco Lopez*, 978 F.3d at 850 (confirming that the Fifth Amendment "covers noncitizens, whether their presence here is lawful, unlawful, temporary, or permanent"). Petitioner's liberty interest was necessarily infringed by his detention by ICE officials on January 23, 2026, after appearing voluntarily and in full compliance for a scheduled check-in.

Respondents also contend that:

- the Court lacks jurisdiction under 8 U.S.C. § 1252(a)(2)(B) to review DHS's discretionary decision to terminate Petitioner's parole;

- parole revocation does not require a case-by-case analysis because, unlike parole grants, terminations under 8 U.S.C. § 1182(d)(5)(A) are left to the DHS Secretary's discretion; and

- DHS was not required to provide prior written notice before terminating parole under § 1182(d)(5)(A). *See* 8 C.F.R. § 212.5(e)(1)(ii).

However, it is well established that habeas review permits the Court to examine the constitutionality of the Petitioner's arrest and detention, consistent with the Due Process Clause,

without intruding upon the Executive's authority. "The Court recognizes that the Government may, under some circumstances, terminate parole that has been granted under 8 U.S.C. § 1182(d)(5); however, it must first provide written notice of its determination that the purpose of parole was accomplished, or its determination that "neither humanitarian reasons nor public benefit warrants the continued presence of an alien in the United States." 8 C.F.R. § 212.5(e)(2)(i). In conjunction with written notice, the Government must also provide the alien resident with a meaningful opportunity to respond to its decision to terminate parole." *See Talabadze v. Rose*, No. 26-cv-00360 (E.D. Pa. Jan. 30, 2026), *Sadykov v. Rose*, No. 2:26-cv-00086 (E.D. Pa. Jan. 16, 2026).

It is undisputed that Petitioner was arrested and placed in detention without a warrant, without prior notice, without explanation, and without any individualized assessment of risk. Rather than exercising discretion through any case-specific evaluation or balancing of Petitioner's substantial liberty interests against the government's interests, Respondents subjected Petitioner to a blanket detention policy, in violation of the Due Process Clause. Therefore, the Court should find that Petitioner's detention unconstitutional and grant the petition for writ of habeas corpus.

III. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the petition for writ of habeas corpus be GRANTED.

Date: 02/06/2026

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

Dated this 6th Day of February, 2026.

s/ Adam Solow
Adam Solow