UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-20521-cv-ALTONAGA

VICTOR MOREIRA MANTUANO,

Petitioner,

v.

CHARLES PARRA, ASSISTANT FIELD OFFICE DIRECTOR, KROME NORTH PROCESSING CENTER, *et al.*,

Respondents.

_____________________________________/

RESPONDENTS' SUPPLEMENTAL BRIEF CONCERNING MANDATORY DETENTION AND DUE PROCESS

Charles Parra, in his official capacity as Assistant Field Office Director, Krome North Processing Center, through the undersigned counsel, and in accordance with the Order directing supplemental briefing [ECF No. 9], hereby files its supplemental brief to address (1) mandatory detention pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) in light of the Petitioner's prior release on humanitarian parole; and (2) whether the Fifth Amendment mandates a bond hearing given Petitioner's prior release on humanitarian parole.

I. Petitioner Remains an Applicant for Admission Subject to Mandatory Detention Irrespective of Being Released on a Parole Under Section 8 U.S.C. § 1182(d)(5).

As indicated in the Government's initial response, on July 23, 2023, USCIS issued a Notice to Appear (NTA) charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i), as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and INA § 212(a)(7)(A)(i)(I), as an immigrant who, at the time of application for admission, is not in

possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act. *See* [ECF No. 6-6] Exh. F, NTA dated July 23, 2023. On August 7, 2023, ICE ERO Petitioner was released on humanitarian parole into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A). *See* [ECF No. 6-7] Exh. G, Interim Notice Authorizing Parole. The parole expired on August 5, 2024, and was conditioned on Petitioner not violating any state or federal laws. *Id.*

"[A]n alien who 'arrives in the United States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (quoting 8 U.S.C. § 1225(a)(1)). "[A]pplicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Id.* As relevant here, "Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.* (citing 8 U.S.C. §§ 1225(b)(1)(A)(i), 1182(a)(6)(C), (a)(7)).

As indicated in the initial response, Section 235 of the INA expressly provides for the detention of aliens originally placed in expedited removal. Such aliens "shall be detained pending a final determination of credible fear." INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Aliens found not to have a credible fear "shall be detained . . . until removed."

However, "applicants for admission may be temporarily released on parole 'for urgent humanitarian reasons or significant public benefit.'" *Jennings*, 583 U.S.C. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)). Parole on these bases, however, "'shall not be regarded as an admission of the

alien.'" *Id.* (quoting 8 U.S.C. § 1182(d)(5)(A)). Importantly, when in the opinion of the Department of Homeland Security, the purposes of parole have been served, the alien shall forthwith (immediately) be returned to DHS custody, and his case shall continue to be dealt with in the same manner as other applicants for admission to the United States. 8 U.S.C. § 1182(d)(5)(A). Moreover, "[p]arole shall be automatically terminated without written notice... at the expiration of the time for which parole was authorized...." 8 C.F.R. § 212.5(e)(1).

The plain language of § 1182(d)(5)(A), which provides that an alien "be returned to the custody from which he was paroled," mandates the result advanced by the Government. The Petitioner's status is "restored to the status that he or she had at the time of parole," which here, is an alien subject to mandatory detention and expedited removal. *See Mokanu v. Warden, Federal Detention Center Miami*, No. 25-24121-ARTAU, 2026 WL 472294, ___F. Supp. 3d___, at *6 (S.D. Fla. Feb. 19, 2026) (holding that petitioner who had been present in the country for years on humanitarian parole was an applicant for admission and subject to detention under 8 USC 1225(b)(2)); *Tenemasa-Leme v. Hyde*, No. 25-13029, 2025 WL 3280555 (D. Mass. Nov. 25, 2025); *Sanchez v. Soto*, No. CV 25-19082 (SDW), 2026 WL 125576, at *2 (D.N.J. Jan. 16, 2026) ("The record of this matter makes it clear that Petitioner was detained at the border as an 'arriving alien' under § 1225(b)(2). Her release on parole does not change that because Petitioner is treated legal as if she remained at the border for the duration of that parole."); *Chanaguano Caiza v. Scott*, No. 1:25-CV-00500-JAW, 2025 WL 3013081, at *7 (D. Me. Oct. 28, 2025) ("The Court concludes that (Petitioner) was initially detained pursuant to § 1225(b)(2) and therefore, upon expiration of his parole, his status is restored to detention under that same statute.").

This conclusion follows decades of firmly established Supreme Court precedent that parole grants no additional status, and that aliens are to be treated as if they remained at the border,

arriving and seeking admission. In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), the Supreme Court essentially held that even spending 25 years in the United States does not entitle an arriving alien any more due process than an alien arriving at the United States border in the first instance. *Id.* at 213 ("Neither respondent's harborage on Ellis Island nor his prior residence here transforms this into something other than an exclusion proceeding."); *see Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958) ("The parole of aliens seeking admission is simply a device through which needless confinement is avoided while administrative proceedings are conducted. It was never intended to affect an alien's status, and to hold that 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 this Court.")

II. The Fifth Amendment Does Not Mandate a Bond Hearing for Paroled Aliens.

Petitioner's Due Process arguments fair no better. "[T]he creation of statutory rights associated with a given immigration status falls exclusively within the purview of Congress ...." *Osorio-Martinez v. Att'y Gen. United States of Am.*, 893 F.3d 153, 172 (3d Cir. 2018). As stated above, Petitioner's status reverts to that prior to humanitarian parole upon expiration or termination of that parole.

Given that fact, Petitioner's constitutional claim fails as a matter of law. Mandatory detention under § 1225(b) has repeatedly been upheld as constitutionally permissible. *See Jennings v. Rodriguez*, 583 U.S. at 299–301. The Fifth Amendment does not require bond hearings for aliens detained pursuant to valid statutory authority, nor does Petitioner possess a protected liberty interest in release on bond where Congress has mandated detention. The Due Process Clause does not prohibit Congress from imposing categorical detention rules in the immigration context. *See Demore v. Kim*, 538 U.S. 510, 528 (2003). In addition, the Eleventh Circuit has held that "the

expedited removal process does not violate an alien's due process rights." *Francis v. U.S. Att'y Gen.*, 603 F. App'x 908, 912-13 (11th Cir. 2015).

Petitioner's reliance on *Zadvydas v. Davis* is misplaced. To the extent that Petitioner argues that his detention violates his Due Process rights, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) (ECF No. 1 at ¶¶ 28-33), this Court should reject that claim because *Zadvydas* governs post-removal-order detention under § 1231, not pre-removal detention under § 1225.

Among the courts that have recognized either constitutional limits or implied statutory limits on the length of pre-removal order detention, several have denied habeas petitions where detention was far greater than the approximately four months at issue in this case. *See, e.g. Rampersadsingh v. DHS/ICE,* Case No. 23-20707-CIV-Dimitrouleas (S.D. Fla. 2023), D.E. 11, Order Denying Petition (recognizing that the petitioner's 14-month detention pending removal proceedings did not violate due process because the "Supreme Court's *Demore* and *Jennings* decisions foreclose Petitioner's claim that his continued detention is unconstitutional"); *O.D. v. Warden, Stewart Detention Ctr.*, 2021 WL 5413968 at *4-5 (M.D. Ga. Jan. 14, 2021), *adopted by*, 2021 WL 5413966 (M.D. Ga. Apr. 1, 2021) (denying habeas relief to § 1226(c) petitioner who had been detained for nineteen months); *Sigal v. Searls*, 2018 WL 5831326 at *5, 9 (W.D.N.Y. Nov. 7, 2018) (denying habeas relief to petitioner detained for seventeen months after "tak[ing] into account all of the factual circumstances"); *see also Hylton v. Shanahan*, No., 2015 WL 3604328, at *6 (S.D.N.Y. June 9, 2015) (detention without bail for roughly two years did not violate due process); *Luna-Aponte v. Holder*, 143 F. Supp. 2d 189, 197 (W.D.N.Y. 2010) (three years).

Petitioner's circumstances must be considered as a whole, and the totality of his circumstances indicate that detention is appropriate. As of this filing, Petitioner has been in immigration detention since October 26, 2025.

III. CONCLUSION

Petitioner is properly detained under 8 U.S.C. § 1225(b). Accordingly, the Court should deny Petitioner's habeas petition.

Respectfully submitted,

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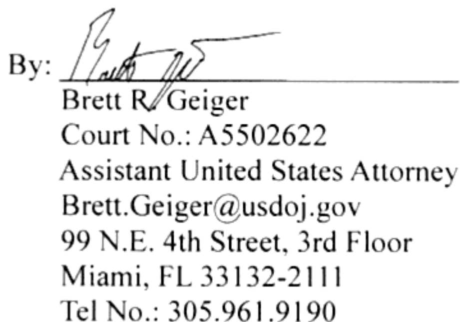
UNITED STATES ATTORNEY

By: 

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