UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

HEYLIN JULESMY CABRERA-LOPEZ, *Petitioner*, *v.* PATRICIA HYDE, Field Office Director, U.S. Immigration and Customs Enforcement, Boston Field Office; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of U.S. Department of Homeland Security; DONALD J. TRUMP, in his official capacity as President of the United States; PAMELA BONDI, in her official capacity as U.S. Attorney General; CAROLYN RILEY, Superintendent, Chittenden Regional Correctional Facility; DAVID W. JOHNSTON, Vermont Sub-Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations; and PETE R. FLORES, in his official capacity as Acting Commissioner for U.S. Customs and Border Protections, *Respondents.*	Case No. 2:26-cv-00017

FEDERAL RESPONDENTS' OPPOSITION TO
EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

Federal Respondents respectfully submit this opposition to the Petition for Writ of Habeas Corpus that Heylin Julesmy Cabrera-Lopez filed on January 26, 2026. ECF No. 1 (the "Petition"). Petitioner is a noncitizen who entered the United States in July 2022 without inspection. She was issued a Notice to Appear (NTA) and granted temporary parole until September 2022. In January 2026, Petitioner was taken into custody by Immigration and Customs Enforcement ("ICE") and later transferred to Chittenden Regional Correctional Facility. She initially filed the Petition in the District of Massachusetts, and that court then transferred it to this District. Petitioner alleges that her detention violates her right to substantive and

procedural due process under the Fifth Amendment. Yet, Petitioner's parole expired years ago, and the Second Circuit has held that when an arriving noncitizen is paroled into the United States, that person remains constructively detained at the border and reverts back to her arriving status upon the expiration of parole. Accordingly, Petitioner is properly detained pursuant to 8 U.S.C. § 1252(b)(2) and has not met her burden to show that detention is unlawful. Accordingly, the Petitioner and request for temporary restraining order should be denied.

RELEVANT BACKGROUND

A. Factual History

Petitioner is a citizen of Nicaragua who entered the United States on or about July 2022. Pet. ¶ 1. Because she lacked documents allowing entry into the United States, Petitioner was inadmissible and was thus issued a Notice to Appear charging her with removability. *See* Ex. A (Notice to Appear). Petitioner was granted parole into the United States for a limited period, with her parole expiring on September 4, 2022. *See* Ex. B (Parole Stamp).

On January 11, 2026, Petitioner was arrested by ICE pursuant to a warrant in South Portland, Maine. *See* Ex. B (Warrant for Arrest); Pet. ¶ 3. She was first detained in Massachusetts, before her transfer to Vermont. On January 26, 2026, Petitioner filed a Petition for Writ of Habeas Corpus and Emergency Motion for a Temporary Restraining Order in the District of Massachusetts, with the action then transferred to the District of Vermont in light of Petitioner's detention location. ECF Nos. 1, 11. Petitioner alleges that her detention violates her Fifth Amendment rights, specifically that she has a substantive liberty interest in remaining in the United States[1] and that she has been deprived of her liberty without the requisite procedural protections. Pet. ¶¶ 12-13.

[1] The Petition states that Petitioner has a liberty interest in remaining in Massachusetts, but given that the Petition alleges she resided in Maine, this appears to be an error.

B. Relevant Legal Framework

Section 1225 of the Immigration and Nationality Act ("INA") defines "applicant for admission" as a person present in the United States who has not been admitted or who arrives in the United States . . . ." 8 U.S.C. § 1225(a)(1). Under Section 1225(b)(2), an individual "who is an applicant for admission" "shall be detained" for full (*i.e.*, non-expedited) removal proceedings under 8 U.S.C. § 1229a "if the examining immigration officer determines that [the noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). The mandatory detention required by Section 1225(b)(2) extends throughout the applicant's removal proceeding. *See Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018).

While Section 1225(b)(2) does not allow for individuals to be released on bond, the INA grants the Department of Homeland Security ("DHS") discretion to exercise parole authority to temporarily release an applicant for admission, but only for urgent humanitarian reasons or significant public benefit. 8 U.S.C. § 1182(d)(5)(A). However, "such parole of such [noncitizen] shall not be regarded as an admission of the [noncitizen] and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the [noncitizen] 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." *Id.*; *see also* 8 C.F.R. § 212.5(e)(2)(i). As is plain from the face of that statute, "[s]uch parole does not constitute an admission," and, "[a]lthough paroled [noncitizens] physically enter the United States for a temporary period, they nevertheless remain constructively detained at the border . . . ." *Ibragimov v. Gonzales*, 476 F.3d 125, 132, 134 (2d Cir. 2007).

STANDARD OF REVIEW

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited ju-

risdiction. 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). Title 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. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001). Courts have been explicit that a habeas petitioner bears the burden of proving that her custody violates the Constitution, laws, or treaties of the United States such that a writ of habeas corpus should be granted. *See Skaftouros v. United States*, 667 F.3d 144, 158 (2d Cir. 2011) ("it is the petitioner who bears the burden of proving that he is being held contrary to law").

ARGUMENT

A. Petitioner Has Received Adequate Due Process.

The Petition appears to imply that Petitioner was arrested while on parole without any process. Yet, this is simply not the case. First, Petitioner's parole expired in September 2022, and she was arrested in January 2026. Regardless, DHS may in its discretion terminate parole "when the purposes of such parole shall . . . have been served[.]" 8 U.S.C. § 1182(d)(5). Second, Petitioner cannot argue that she did not have adequate notice of the parole's expiration, as the termination date is printed on the parole document. *See* Ex. B; *see also* 8 C.F.R. § 212.5(e)(2)(i) ("parole shall be terminated upon written notice to the [noncitizen]"). Third, Petitioner was issued an NTA upon her entry to the country, which remains in effect. *See* Ex. A. And finally, Petitioner's recent arrest was based upon a warrant. *See* Ex. C. Accordingly, Petitioner cannot claim that she has not received due process and that her arrest was unlawful.

B. Petitioner Is Lawfully Detained Pursuant to Section 1225(b).

Because Petitioner was originally taken into custody when arriving in the United States without a valid entry document, she was indisputably an "applicant for admission coming or

attempting to come into the United States at a port-of-entry," 8 C.F.R. § 1.2, and she thus fit squarely within the legal definition of "arriving alien." *Id.*; *see, e.g.*, *Ibragimov*, 476 F.3d at 134; *see also* 8 U.S.C. § 1225(a)(1) (defining an "applicant for admission" as someone "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . ."). While Petitioner was briefly paroled into the country, "[t]he terms of [§ 1182(d)(5)(a)] reflect the well-settled principle that Congress did not intend for parole of a [noncitizen] to constitute [her] legal entry or admission to the United States." *Ibragimov*, 476 F.3d at 134. Individuals who are paroled "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 v. Barber*, 357 U.S. 185, 191 (1958)).

The Second Circuit's decision in *Ibragimov* addressed the issue of a person whose parole was terminated and whom the government then charged with being inadmissible as an arriving noncitizen, despite the three years he had spent in the country. *Id.* at 129. The Second Circuit ultimately rejected the petitioner's argument that he could not be considered an arriving noncitizen because he had been paroled into the country three years back and had therefore "already arrived" and "was no longer seeking inspection." *Id.* at 136; *see id.* at 132-37. The Second Circuit held that a person remains an arriving alien even if paroled pursuant to § 1182(d)(5)(A), such that, when the petitioner's parole expires or is terminated, "his status revert[s] to that which he held at the time he was paroled into the United States," namely, "that of an 'arriving alien' seeking admission at our borders." *Id.* at 137; *see, e.g.*, *United States v. Balde*, 943 F.3d 73, 84-85 (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 also, e.g.*, *Walizada v. Trump*, No. 25-CV-768, 2025 WL 3551972, at *15 (D. Vt. Dec. 11, 2025) (recog-

nizing *Ibragimov* as binding precedent on this issue).

Moreover, when parole ends, the person "shall forthwith return or be returned to the custody from which he was paroled . . . ." 8 U.S.C. § 1182(d)(5)(A); *see also Ofosu v. McElroy*, 98 F.3d 694, 700–01 (2d Cir. 1996) (holding that noncitizen who was detained as an inadmissible arriving noncitizen before being temporarily paroled into the United States was required to surrender to immigration authorities upon the termination of his parole). Thus, Petitioner remains an applicant seeking admission under Section 1225(b) and as such is subject to mandatory detention.[2]

C. The Court Should Not Grant the Temporary Restraining Order.

In seeking a preliminary injunction or temporary restraining order, a petitioner bears the burden of demonstrating: a likelihood of success on the merits; irreparable harm; a balance of equities in her favor; and a public interest favoring injunctive relief. *See D'Ambrosio v. Scott*, No. 2:25-CV-468, 2025 WL 1502936, at *4 (D. Vt. May 23, 2025). For the reasons set forth above, Petitioner cannot demonstrate a likelihood of success on the merits of her claim. Moreover, because the Petition can be adjudicated without delay, there is no need for injunctive relief in the interim.

For the foregoing reasons, intervention by this Court is unwarranted at this juncture, and the Petition and request for a temporary restraining order should be denied.

[2] Should the Court disagree and determine that Petitioner's detention falls within Section 1226 of the INA, immediate release would not be the proper remedy but rather to order that Petitioner receive a hearing in immigration court.

Dated at Burlington, in the District of Vermont, February 3, 2026.

Respectfully submitted,

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