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' RESPONSE TO
PETITIONER'S SUPPLEMENTAL FILING

Petitioner's supplemental filing fails to demonstrate that her present detention is unlawful and that she is entitled to the relief she seeks. As set forth in Federal Respondents' opposition to the Petition for Writ of Habeas Corpus (ECF No. 16), Petitioner is properly subject to detention pursuant to 8 U.S.C. § 1225(b) as she entered the United States without inspection, was granted temporary parole for two months, and upon the conclusion of that parole in September 2022 reverted back to her arriving status of constructive detention at the border. Her supplemental filing does not establish a statutory or constitutional violation, and thus the Petition should be denied.

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

A. Petitioner is not entitled to an individualized determination as to her detention

Petitioner claims that her due process rights have been violated because Immigration and Customs Enforcement (ICE) is required to perform an individualized determination as to the need for detention, which did not occur. In so arguing, Petitioner relies on statutes and cases that are not relevant to her situation. As set forth in Federal Respondents' initial opposition, Petitioner was found to be inadmissible when she was encountered near the border on July 3, 2022 and issued a Notice to Appear charging her with removability. *See* ECF No. 16-1.[1] Along with that Notice to Appear, Petitioner received a Notice of Custody Determination that cited Section 236 of the Immigration and Nationality Act but noted that she was released under "other conditions." ECF No. 19-3. Those conditions were a very limited grant of parole—for two months—with her parole expressly expiring on September 4, 2022. *See* ECF No. 19-2.

Under 8 C.F.R. § 212.5(e)(1), humanitarian parole terminates automatically in only two limited circumstances: where the noncitizen departs the country or "at the expiration of the time for which parole was authorized." Petitioner falls within the latter category and therefore was not entitled to additional process or notice at the expiration of her parole. Moreover, while Petitioner cites regulations related to bond and claims that she was initially detained under Section 1226(a), *see* ECF No. 19 at 5, 7, at no time was she granted bond; instead, as Petitioner herself recognizes, she was paroled into the United States under 8 U.S.C. § 1182(d)(5)(A), *see id.* at 2, which expressly applies to individuals "applying for admission" and therefore implicates Section 1225. Because upon the expiration of Petitioner's parole, her status was that of one "who should be returned to

[1] During the hearing held on February 3, 2026, the Court noted the lack of a checked box on the first page of the Notice to Appear. Petitioner does not challenge her detention on this basis in her supplemental filing, and in any event, because the grounds for Petitioner's inadmissibility are made clear in the document's text, this clerical oversight has no legal significance.

the custody from which he was paroled and thereafter . . . dealt with in the same manner as that of any other applicant for admission," 8 U.S.C. § 1182(d)(5)(A), Petitioner remained subject to Section 1225's mandatory detention provision. Accordingly, there was no need for a new individualized custody determination to accompany the January 2026 arrest warrant.[2] Further, most of the cases Petitioner cites, with the exception of *Walizada* and *Graterol Ruiz* discussed below, have no bearing on this case, as they either concerned individuals who were first encountered by immigration officials long after they arrived in the United States (*see, e.g.*, *Piedrahita-Sanchez v. Turek*, No. 25-875 (D. Vt. Nov. 14, 2025)) or individuals initially released on bond (*see, e.g.*, *Gonzales Lopez v. Trump*, No. 25-863 (D. Vt. Nov. 17, 2025)). Petitioner's situation here is materially different, and her arrest and detention are lawful.

B. *Ibragimov* Remains Binding Precedent

Petitioner cites a recent decision within this district, *Graterol Ruiz v. Trump et al.*, 2:26-cv-00012 (D. Vt. Feb. 6, 2026), for the proposition that a person who was paroled into the United States is entitled to a bond hearing under Section 1226, notwithstanding the Second Circuit's contrary decision in *Ibragimov v. Gonzales*, 476 F.3d (2d Cir. 2007). In *Graterol Ruiz*, the court held that because the Second Circuit's decision in *Ibragimov* predated the Supreme Court's decision in *Loper Bright*, which requires courts to exercise independent judgment about statutory interpretation, the court need not follow this Second Circuit precedent. 2:26-cv-00012 at *10. Yet, "this Court — like all district courts within the Second Circuit — is bound by *stare decisis* to follow decisions of the Second Circuit until that court says otherwise." *Salazar v. Nat'l Basketball Ass'n*, No. 1:22-CV-07935, 2025 WL 2830939, at *4 (S.D.N.Y. Oct. 6, 2025) (internal quotation

[2] Petitioner provides statutory citations related to warrantless arrests in claiming that she was entitled to an individualized determination but concedes that she was arrested pursuant to a warrant. Thus, these arguments have no relevance.

omitted). As set forth below, an examination of the Second Circuit's decision in *Ibragimov* demonstrates that this is not an instance in which Second Circuit precedent can be disregarded because "a subsequent decision of the Supreme Court so undermines it that it will almost inevitably be overruled by the Second Circuit." *United States v. Emmenegger*, 329 F. Supp. 2d 416, 429 (S.D.N.Y. 2004).

In *Ibragimov*, 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 prior. *Id.* at 129. The *Ibragimov* petitioner then 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 the BIA's decision, 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 earlier and thus had already arrived and was no longer seeking inspection. *Id.* at 133-34. In particular, interpreting the statutory language of Section 1182(d)(5), the Second Circuit explained that "[t]he terms of this statute reflect the well-settled principle that Congress did not intend for

parole of an alien to constitute an alien's legal entry into the United States." *Id.* at 134 (collecting cases). The Second Circuit thus "[held] that the IJ and BIA did not err in treating petitioner as an 'arriving alien' and an 'applicant for admission' for purposes of his removal proceedings." *Id.* at 138.

Federal Respondents respectfully submit that the *Graterol Ruiz* court misapplied Supreme Court and Second Circuit precedent in determining that, after the Supreme Court's decision in *Loper Bright*, it was not bound by *Ibragimov* because the Second Circuit's analysis "relied heavily on the INS' interpretation in reaching its conclusion[.]" *Graterol Ruiz*, 2026 WL 323254, at *5. The *Graterol Ruiz* court characterized *Ibragimov* as a case that was "decided prior to the United States Supreme Court's decision in *Loper Bright* [in which] the Second Circuit interpreted regulations adopted by the Immigration and Naturalization Services ('INS') to affirm a BIA decision concluding an individual who had been granted advance parole was to be considered 'an arriving alien' and an 'applicant for admission.'" *Id.* While the court is correct that "it is not bound by an agency's statutory interpretation," *id.* at 11, it *is* bound by the Second Circuit's statutory interpretation in *Ibragimov*. *Cf. 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 though questioning whether the "Second Circuit would reach this same conclusion without *Chevron* deference").

In *Loper Bright*, the Supreme Court stated that it was not "call[ing] into question prior cases that relied on the *Chevron* framework" because such cases "are still subject to statutory *stare decisis* despite [the Court's] change in interpretative methodology." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Indeed, the Second Circuit has made clear that *Loper Bright* does not provide a basis to disregard prior precedent. *See Garcia Pinach v. Bondi*, 147 F.4th 117,

121 (2d Cir. 2025). This is particularly true where earlier precedents "relied on other interpretative methods that were unaffected by *Loper Bright*," and were "only partly based on deference to [agency] interpretation." *Id.* The Second Circuit's interpretation of Section 1182(d)(5) in *Ibragimov* is based on the text of the statute. *See Ibragimov*, 476 F.3d at 134 (quoting the statutory text to conclude that "[t]he terms of this *statute* reflect the well-settled principle that Congress did not intend for parole of an alien to constitute an alien's legal entry or admission") (emphasis added). Indeed, the only reference to *Chevron* is relegated to a footnote in which the Circuit Court explained that the petitioner had not "explicitly argue[d] that the pertinent INS regulations reflect an impermissible interpretation of the parole statute under the well-known principles of [*Chevron*]," but nevertheless proceeded to conduct the analysis in further support of its decision. *Ibragimov*, 476 F.3d at 137 n.17. Therefore, Federal Respondents respectfully submit that this Court's acknowledgment in *Walizada* that *Ibragimov* remains binding precedent was correct, and Petitioner here remains subject to mandatory detention under Section 1225 as an "arriving alien" in light of her parole expiration.

II. Petitioner Is Not Entitled to Bond or Bail from this Court or Immediate Release

For the reasons set forth above and in Federal Respondents' original opposition, Petitioner is not entitled to a bond hearing before the immigration court. Nor is she entitled to any such proceeding before this court. On the subject of bond, Petitioner cites national events with no actual bearing on her case in claiming that court orders will not be followed if the Court directs the immigration court to hold a bond hearing. Yet, in the District of Vermont, bond has been granted by the immigration judge in many cases after the district court ordered that a hearing occur. Thus, if the Court concludes that Petitioner is entitled to a bond hearing, there is no basis for the Court to perform that role, especially given complications around the mechanics of such a hearing. For

example, if the Court were to order bond, it is not clear which entity would process the payment, and a bond determination by the Court would require it to remain involved with Petitioner's immigration case if the conditions of her release needed to be altered or she ultimately were ordered removed.

There also are no grounds for the Court to grant bail to Petitioner. As a preliminary matter, there is no need for temporary release; the issues raised in the Petition are straightforward and can be quickly adjudicated. More fundamentally, Petitioner has not met the high standard for this rare remedy for which the court "must inquire into whether the habeas petition raises substantial claims and whether extraordinary circumstances exist that make the grant of bail necessary to make the habeas remedy effective." *Mapp v. Reno*, 241 F.3d 222, 230 (2d Cir. 2001).[3] This standard "is a difficult one to meet[,]" as the Second Circuit has cautioned that the power to grant bail to habeas petitioners "is a limited one, to be exercised in special cases only." *Id.* at 226 (cleaned up). "'The petitioner bears the burden of demonstrating both the 'substantial questions' and the 'exceptional circumstances' required' under *Mapp.*" *Mahdawi v. Trump*, 2025 WL 1243135, at *8 (D. Vt. Apr. 30, 2025) (quoting *Swerbiolov v. United States*, 2005 WL 1177938, at *2 (E.D.N.Y. May 18, 2005)).

Here, Petitioner requests bail without engaging with the key analysis of *Mapp* or claiming that extraordinary circumstances exist. Moreover, Petitioner cannot simply cite national events and imply that they transform her situation into the type of "special case" that *Mapp* envisioned.

[3] Federal Respondents maintain that *Mapp v. Reno* no longer remains good law, given the jurisdictional limits set forth by Congress in the Real ID Act. *See* REAL ID Act, P.L. 109-13, at §§ 106(a)(1)-(3) (amending 8 U.S.C. § 1252 to specify no district court jurisdiction under 28 U.S.C. § 2241 to review challenges arising from removal proceedings). This is currently pending before the Second Circuit. *See Ozturk v. Hyde, et al.*, 136 F.4th 382 (2d Cir. 2025) (motions panel decision denying motion for stay pending appeal); *Mahdawi v. Trump et al*, 136 F.4th 443 (2d Cir. 2025) (same).

Instead, Petitioner relies only on the secondary factors of flight risk and safety, which do not weigh wholly in her favor, given her previous failure to appear in immigration court, *see* ECF No. 19, ¶ 4 fn.1, and her repeat criminal offenses, *see id.* ¶ 9. Thus, Petitioner's circumstances do not present the rare instance in which bail should be granted.

Finally, Petitioner is not entitled to immediate release. While she relies on this Court's decision in *Walizada*, that case is readily distinguishable. Whereas Walizada was invited into the United States by the government because he had served as an ally in Afghanistan, *see* 2025 WL 3551972, at *3-4, Petitioner admits that she did not present at a port of entry but rather was encountered by immigration authorities after she entered the United States on foot with a group of people, ECF No. 19-1 ¶ 4. Walizada's parole had ended only days before his arrest, *see* 2025 WL 3551972, at *4, while Petitioner was granted only two months of parole, which automatically expired over three years ago, *see* ECF No. 19-2. Finally, Walizada had been in custody for over three months, *see* 2025 WL 3551972, at *30, whereas Petitioner here was detained just over a month ago, *see* ECF No. 16-1. Accordingly, Petitioner cannot claim that her detention has been unduly prolonged or that the circumstances of her detention "shocks the conscience." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 848 (1998) (reiterating the standard for a substantive due process claim). Nor can she point to procedural due process she was denied, and therefore, Petitioner is not entitled to release.

For the foregoing reasons, the Court should deny the Petition and dissolve the temporary restraining order.

Dated at Burlington, in the District of Vermont, February 17, 2026.

Respectfully submitted,

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