DETAINED

Hilary Smith
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880
hilary.smith@ghp-law.net

Attorney for Petitioner

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

RONIA MOHAMMADI, *Petitioner,* v. PAMELA BONDI, United States Attorney General; KRISTI NOEM, Secretary of U.S. Department of Homeland Security; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; LAURA HERMOSILLO, Field Office Director, ICE Seattle Field Office; BRUCE SCOTT, Warden, Northwest ICE Processing Center; *Respondents.*	Case No.: 2:26-cv-420 PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Ronia Mohammadi, is a non-citizen who is currently being held in detention at the Northwest ICE Processing Center (NWIPC) by U.S. Immigration and Citizenship Enforcement (ICE).

2. Petitioner arrived in the United States on September 1, 2021, and received humanitarian parole that allowed her to remain in the Untied States for a period not to exceed August 31, 2025.

3. On July 25, 2025, Petitioner was detained by Immigration and Customs Enforcement (ICE) without receiving any written reasoning for the cancellation of her parole.

4. Petitioner was granted asylum on December 23, 2025. The Department of Homeland Security (DHS) appealed this decision on January 22, 2026. Petitioner remains detained because of this appeal.

5. Petitioner was unlawfully re-detained in July 2025 in violation of due process and the Administrative Procedure Act (APA). Despite the current posture of her case now, she was initially unlawfully detained and because of that, should be granted habeas and ordered immediately released.

PARTIES

6. Petitioner Ronia Mohammadi is a citizen of Afghanistan who is currently detained at the Northwest ICE Processing Center in Tacoma, Washington.

7. Respondent Pamela Bondi is the Attorney General of the United States. She is sued in her official capacity.

8. Respondent Kristi Noem is the Secretary of the DHS. She is the cabinet-level secretary responsible for all immigration enforcement in the United States. She is sued in her official capacity.

9. Respondent Todd Lyons is the Acting Director of ICE. He is the head of the federal agency responsible for all immigration enforcement in the United States. He is sued in his official capacity.

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

10. Respondent Laura Hermosillo is the Field Office Director of the ICE Seattle Field Office and is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, including detentions, enforcement, and removal operations. She is the immediate legal custodian of the petitioner for purposes of a federal habeas petition. She is sued in her official capacity.

11. Respondent Bruce Scott is the Warden of the NWIPC, the privately-operated immigration detention center where the petitioner is being detained. He is the immediate physical custodian of the petitioner, and he is sued in his official capacity.

JURISDICTION & VENUE

12. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

13. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of the U.S. Constitution. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

14. No other petitions, appeals, or motions regarding habeas corpus have been filed with any other court.

15. Venue in the Western District of Washington is appropriate under 28 U.S.C. § 1391(e)(1) because the petitioner is detained in this judicial district.

16. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because a substantial part of the events or omissions giving rise to the claim occurred within this judicial district.

FACTUAL BACKGROUND

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

17. Petitioner, Ronia Mohammadi, a native and citizen of Afghanistan, was paroled into the United States at the Philadelphia International Airport on September 1, 2021, through Operation Allies Refuge (OAR). She received authorization to remain in the United States for a temporary period not to exceed beyond August 31, 2025. *See* Exh. 1, Most Recent I-94.

18. Petitioner filed an application for asylum with United States Citizenship and Immigration Services (USCIS), seeking protection in the United States based on the harm and torture she suffered in Afghanistan.

19. On July 25, 2025, Petitioner was targeted by Customs and Border Protection based on allegations that she did not possess documentation that allowed her to live in the United States legally, despite having valid parole. Her Notice to Appear indicates that her parole was "affirmatively cancelled under 8 C.F.R. § 212.5(e)." Exh. 2, Notice to Appear. Petitioner received no further notice of this cancellation of her parole nor was she given any reason for why her parole was being revoked.

20. After being apprehended, Petitioner was arrested and detained. She has been detained at the NWIPC since July 25, 2025. She was not afforded a bond hearing because she was detained as an "arriving alien" and was subject to mandatory detention on that incorrect basis. *See* Exh. 2; *see also* 8 U.S.C. § 1225(b).

21. Petitioner re-filed her application for asylum with the Tacoma Immigration Court.

22. On December 2, 2025, Petitioner had an Individual Calendar Hearing before an Immigration Judge. On December 23, 2025, the Immigration Judge issued a written decision granting Petitioner's application for asylum. Exh. 3, Decision of the Immigration Judge.[1]

[1] Respondent is only including the first page of the judge's order to keep confidential the factual basis of her grant of asylum.

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

23. However, instead of being released, Petitioner continued to be detained because the government reserved the right to appeal. On January 22, on the final day it could, the DHS filed its appeal with the Board of Immigration Appeals (Board). The Notice of Appeal was not sent to either Petitioner or Petitioner's counsel of record for her immigration case, as it was presumed to be served through EOIR Courts and Appeals System (ECAS). A clerk at the Board confirmed that an appeal does not appear in the ECAS until it is accepted into the record by the Board. Petitioner's appeal was not accepted into the record until Thursday, January 29, 2026. Exh. 4.

24. Because of this, Petitioner's family went to the NWIPC to secure her release on Friday, January 23, 2026, only to have their hopes dashed by an appeal that had not been served on either Petitioner or her counsel properly.

25. Despite a grant of asylum, Petitioner remains detained.

26. This Petition has been verified.

MEMORANDUM OF LAW

27. Humanitarian parole under § 1182(d)(5)(A) is a distinct procedure that necessarily requires a determination that a noncitizen poses neither "a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b); *see also Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017) ("Release [therefore] reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

28. Humanitarian parole can be revoked in two ways. First, it can be automatic:

> (1) Automatic. Parole shall be automatically terminated without written notice (i) upon the departure from the United States of the alien, or, (ii) if not departed, at the expiration of the time for which parole was authorized, and in the latter case

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

> the alien shall be processed in accordance with paragraph (e)(2) of this section except that no written notice shall be required.

8 C.F.R § 212.5(e)(1). Or, parole may be revoked with notice:

> (2)(i) On notice. 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. When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified. Any further inspection or hearing shall be conducted under section 235 or 240 of the Act and this chapter, or any order of exclusion, deportation, or removal previously entered shall be executed. If the exclusion, deportation, or removal order cannot be executed within a reasonable time, the alien shall again be released on parole unless in the opinion of the official listed in paragraph (a) of this section the public interest requires that the alien be continued in custody.

Id. § 212.5(e)(2)(i).

29. Courts have held that "revocation of parole . . . requires an individual determination" and the government must provide "at minimum some reasoning explaining why the Petitioner would now be considered a flight risk or danger to the community." *Noori v. Larose*, No. 25-cv-1824-GPC-MSB, 2025 U.S. Dist. LEXIS 194953, at *9-10, 14 (N.D. Cal. Oct. 1, 2025) (enjoining re-detention of the petitioner during the pendency of his removal proceedings without leave of the court, when the petitioner was previously released on humanitarian parole pursuant to § 1182(d)(5)(A)); *see also Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 U.S. Dist. LEXIS 130216, 2025 WL 1898025, at *13-14 (D. Or. July 9, 2025) (finding parolee must receive written notice of impending revocation with reasons for revocation); *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."); *Castellon v. Kaiser*, No. 1:25-CV-00968 JLT EPG, 2025 U.S. Dist. LEXIS 157841, 2025 WL 2373425, at *6 (E.D. Cal. Aug. 14, 2025) (finding a case-by-case analysis is needed to revoke parole); *Barrera v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 U.S. Dist. LEXIS 162825, 2025 WL 2420068, at *12 (E.D. Cal. Aug. 21, 2025).

30. Courts have also found that even if written notice is given in the form of a charging document, the government must provide some further explanation as to the reasons for revocation explaining why ". . . neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." *Noori v. LaRose*, 2025 U.S. Dist. LEXIS 232843, at *10 (S.D. Cal. Nov. 26, 2025) (quoting 8 C.F.R. § 212.5(e)(2)(i). Failing to comply with regulations in revoking parole can constitute a violation of the APA. *See id.*

EXHAUSTION OF ADMINISTRATIVE REMEDIES

31. There are no administrative remedies that can provide the relief that Petitioner seeks.

IRREPARABLE INJURY

32. Petitioner has suffered irreparable injury as a result of the detention. Her physical liberty continues to be restrained. The conditions of detention are penal-like, restricting her movements, her privacy, her access to health care, food, recreation, and grooming, and governing virtually all aspects of her daily life. *Rahman v. Garland,* No. 24-02132, 2025 U.S. Dist. LEXIS 133500, at *10-11 (W.D. Wash. June 26, 2025); *Katlong v. Barr,* No. C20-0846, 2020 U.S. Dist. LEXIS 224820, 2020 WL 7048530, at *4 (W.D. Wash. Oct. 30, 2020).[2] And she has no way to know

[2] Details are taken from pages 14 and 18-27 of the Detainee Handbook, available on the ICE website at https://www.ice.gov/doclib/detention/ndHandbook/ndhEnglish.pdf.

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

exactly how long the detention will last, other than it will be a long time and is outside her control. This only increases the psychological pressure on her.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Violation of Due Process

33. Petitioner re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Petition.

34. The relevant inquiry is what led to Petitioner's detention initially, regardless of the current posture of her case.

35. Petitioner's detention violates her right to Due Process under the Fifth Amendment because she did not receive notice of the reasons for the revocation of her parole prior to its expiration. Under *Mathews*, she has a protected liberty interest, the risk of erroneous deprivation is high, and the government's interest is substantially outweighed by that risk. *See Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976); *Noori*, 2025 U.S. Dist. LEXIS 232843, at *8-10.

36. Because Petitioner had a protected liberty interest once she was released into the United States on humanitarian parole, the Due Process Clause requires procedural protections before she can be deprived of that interest—procedural protections she was not afforded.

SECOND CLAIM FOR RELIEF
Violation of the Administrative Procedure Act

37. Petitioner re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Petition.

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

38. "Under the APA, an agency action may be set aside if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." 5 U.S.C. § 706(2)(A).

39. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

40. As stated, the government's own regulations state that humanitarian parole may only be terminated "upon accomplishment of the purpose for which parole was authorized," or when ". . . neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." 8 C.F.R. § 212.5(e)(2)(i). This termination also requires written notice to the noncitizen. *Id.*

41. Petitioner was given humanitarian parole to allow her to seek asylum based on the violent overthrown of the Afghan government by the Taliban. There was never any written explanation as to why her humanitarian parole was revoked or cancelled upon her arrest and detention.

42. Respondents violated APA when they categorically revoked Petitioner's parole and detained her without consideration of her individualized facts. *Noori*, 2025 U.S. Dist. LEXIS 232843, at *10-11.

43. Therefore, the revocation of Petitioner's humanitarian parole prior to its expiration was arbitrary, capricious, an abuse of discretion, and not in accordance with the law. Because she was detained in violation of federal law and in violation of the APA, her immediate release is warranted.

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

THIRD CLAIM FOR RELIEF
Violation of Due Process

44. Petitioner re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Petition.

45. In the alternative to immediate release, Petitioner alleges that her detention is now prolonged and she should be afforded a bond hearing to determine whether she poses a danger or a flight risk.

46. Because Petitioner has now been detained for over six months, due process requires, at a minimum, an individualized determination before an Immigration Judge to assess her dangerousness or flight risk. *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942 (9th Cir. 2008).

47. While her NTA charges her an "arriving alien," that is not accurate. Because Petitioner was granted parole in 2021 and had been in the United States for nearly four years when she was detained, she can no longer be considered an "arriving alien." *Marina V.N. v. Robbins*, No. 1:25-cv-01845-KES-SKO (HC), 2025 U.S. Dist. LEXIS 263387, at *6 (E.D. Cal. Dec. 21, 2025) ("Section 1225(b)(1) applies to "an alien . . .who is arriving in the United States or . . . [a]n alien . . . who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility . . . .").

//

//

//

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus ordering Petitioner's immediate release;

c. In the alternative, order Respondents to provide Respondent with a bond hearing within 7 days;

d. If the government does not establish dangerousness or flight risk, order that the petitioner be immediately released without bond, ankle monitor, or other conditions;

e. Issue an order providing for an award of attorney's fees and costs; and

f. Grant such other relief as may be just and reasonable.

Dated: February 5, 2026.

/s/ Hilary Smith

Hilary Smith, WSBA 60474
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880
hilary.smith@ghp-law.net

Attorney for Petitioner

Hilary Smith
Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
206-929-3880

DETAINED

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

RONIA MOHAMMADI,

Petitioner,

vs.

PAMELA BONDI, United States Attorney General;
KRISTI NOEM, Secretary of U.S. Department of Homeland Security;
TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcements;
CAMMILLA WAMSLEY, Seattle Field Office Director, Immigration and Customs Enforcement;
BRUCE SCOTT, Warden, Northwest ICE Processing Center;

Respondents.

Case No.: 2:26-cv-420

MOTION FOR TEMPORARY RESTRAINING ORDER

MOTION FOR TEMPORARY RESTRAINING ORDER

I. MOTION

1. Under FRCP 65, Petitioner moves this Court for a Temporary Restraining Order to restore the status quo and preserve the rights of Petitioner until a final judgment on the merits can be rendered. *U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010).

2. Petitioner requests that this Court order her immediate release from custody while her petition for writ of habeas corpus is pending.

3. Petitioner is aware of this Court's General Order 10-25 issued on December 18, 2025. However, given the physical, mental, and emotional abuse Petitioner suffered in Afghanistan and the psychological toll continued detention is taking on her, Petitioner asserts that the irreparable harm warrants filing this Temporary Restraining Order in this circumstance, especially considering she has been granted asylum by an Immigration Judge.

II. BASIS FOR MOTION

4. This Motion is filed in conjunction with a Petition for Writ of Habeas Corpus filed with the Court on February 5, 2026. The basis for this motion is explained more fully in that Petition.

5. Petitioner is detained at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. The NWIPC is a privately-owned and operated immigration detention center run by the GEO Group, a private contractor for Immigration and Customs Enforcement.

6. Additional relevant procedural history is contained in the Declaration of Hilary Smith, filed with the habeas petition and this motion, with attached exhibits.

7. Petitioner is filing this motion in order to restore the status quo ante litem while her petition is pending. This "refers not simply to any situation before the filing of a lawsuit, but instead to 'the last uncontested status which preceded the pending controversy.'" *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000) (quoting *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 809 (9th Cir.1963)). The pending controversy stems from Petitioner's detainment on July 25, 2025. She is requesting her immediate release because although she now has a grant

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

of asylum, her detention was initiated due to a violation of due process and the Administrative Procedure Act (APA).

III. ARGUMENT

A. Standards for Temporary Restraining Order

8. To grant a Temporary Restraining Order, the plaintiff must meet one of two tests. The more recent test, known as the *Winter* test, requires the plaintiff to prove as follows: (1) that they are likely to succeed on the merits; (2) that they are likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in their favor; and (4) that an injunction is in the public interest. *Sherley v. Sibelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). "The same standard applies to both temporary restraining orders and to preliminary injunctions." *Sterling Commercial Credit-Michigan, LLC v. Phoenix Industries I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting *Hall v. Johnson*, 599 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)).

9. The traditional test, which remains viable in the Ninth Circuit, is known as the "sliding scale" test and requires the plaintiff to prove "serious questions going to the merits" and "a hardship balance that tips sharply toward the plaintiff." *Alliance For The Wild Rockies v. Cottrell,* 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the plaintiff must also show a likelihood of irreparable injury and that the injunction is in the public interest. "Under this approach, the elements of the preliminary injunction test are balanced, so that a stronger showing of one element may offset a weaker showing of another." *Alliance For The Wild Rockies,* 632 F.3d at 1131.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

10. Petitioner meets both of these tests.

B. Petitioner is likely to succeed on the merits and has raised serious legal questions.

11. As the Petition sets out, Petitioner is unlawfully detained.

12. Petitioner was granted humanitarian parole upon entry into the country that was valid until August 31, 2025. *See* Decl. of Hilary Smith, Exh 1, Most Recent I-94; Exh. 2, Notice to Appear. However, Respondents revoked her parole on July 25, 2025, without any justification or reasoning. *See id.*

13. The regulations state that revocation of parole can occur "upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials . . . neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States . . . ." 8 C.F.R. § 212.5(e)(2)(i).

14. Multiple courts within this circuit and across the country have found that when a noncitizen is paroled into the United States pursuant to § 1182(d)(5), they have a liberty interest in their continued release and are entitled to certain due process protections. *See Chavarria v. Chestnut*, 1:25-cv-01755-DAD-AC, 2025 U.S. Dist. LEXIS 255174, at *8-9 (E.D. Cal. Dec. 9, 2025) (granting petitioner's temporary restraining order); *Omer G. G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB (HC), 2025 U.S. Dist. LEXIS 230551, at *5, 9 (E.D. Cal. Nov. 22, 2025) (determining that the petitioner was entitled to a post-deprivation bond hearing after he was initially released pursuant to § 1182(d)(5)(A) and later re-detained); *Salazar v. Casey*, No. 25-cv-02784-JLS-VET, 2025 U.S. Dist. LEXIS 216353, at *4, 6 (S.D. Cal. Nov. 3, 2025) (ordering the petitioner released from custody subject to the conditions of her preexisting

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

parole under § 1182(d)(5)(A), and requiring notice and a hearing prior to her re-detention); *Noori v. Larose*, No. 25-cv-1824-GPC-MSB, 2025 U.S. Dist. LEXIS 194953, at *9-10, 14 (N.D. Cal. Oct. 1, 2025) (enjoining re-detention of the petitioner during the pendency of his removal proceedings without leave of the court, when the petitioner was previously released on humanitarian parole pursuant to § 1182(d)(5)(A)); *Rodriguez Cabrera v. Mattos*, No. 2:25-cv-01551-RFB-EJY, 2025 U.S. Dist. LEXIS 216258, 2025 WL 3072687, at *9-11, 14 (D. Nev. Nov. 3, 2025) (ordering the petitioner's immediate release following re-detention when he was initially released pursuant to § 1182(d)(5)(A)).

15. "The Due process generally 'requires some kind of a hearing before the State deprives a person of liberty.'" *Salazar v. Casey*, No. 25-CV-2784 JLS (VET), 2025 U.S. Dist. LEXIS 216353, 2025 WL 3063629, at *3 (S.D. Cal. Nov. 3, 2025) (quoting *Zinermon v. Burch*, 494 U.S. 113, 127 (1990)). "Although the initial decision to detain or release an individual may be within the government's discretion, 'the government's decision to release an individual from custody creates an implicit promise, upon which that individual may rely, that their liberty will be revoked only if [they] fail[ ] to live up to the . . . conditions [of release].'" *Id.* (alterations in original) (quoting *Pinchi v. Noem*, No. 25-cv-5632-PCP, 792 F. Supp. 3d 1025, 2025 WL 2084921, at *3 (N.D. Cal. July 25, 2025)).

16. To determine whether the procedures afforded to Petitioner are constitutionally sufficient to satisfy the Due Process Clause, the Court considers: (1) the private interest affected, (2) "the risk of an erroneous deprivation of such interest," along with "the probable value, if any, of additional or substitute procedural safeguards," and (3) the Government's interest, including "the

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *See Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976).

17. All three factors support a finding that the government's revocation of Petitioner's humanitarian parole without notification, individual consideration, reasoning, or an opportunity to be heard violated her Due Process rights.

18. First, "[f]reedom from imprisonment . . . lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Second, without notice or an opportunity to be heard, the risk of erroneous deprivation is high. The circumstances surrounding Petitioner's release on humanitarian parole did not meaningfully change and she was provided no reasoning for why her parole was revoked prior to its expiration. Procedural safeguards would have given Petitioner an opportunity to learn and address the reasons for the change and to make sure that her release was not being revoked arbitrarily. Finally, any fiscal or administrative burdens the government would allegedly suffer if it were required to provide notice and reasoning for the change are minimal and outweighed by the risk of erroneous deprivation of the liberty at issue. *See E.A. T.-B. v. Wamsley*, No. 25-cv-1192-KKE, 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025).

19. Therefore, Petitioner has not only raised serious questions regarding the merits, but also has shown a likelihood of success on the merits of her claim.

C. *Petitioner faces irreparable harm, and a hardship balance tips sharply toward her.*

20. Petitioner faces substantial hardships and irreparable harm if she is to remain unlawfully detained.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

21. As a threshold matter, Petitioner has "established a likelihood of irreparable harm by virtue of the fact that [she is] likely to be unconstitutionally detained for an indeterminate period of time." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). And, "it is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

22. Where, as here, the "alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005).

23. Petitioner has been granted asylum. She has met her evidentiary burden to show that she is entitled to remain in this country in protected status, until she is eligible to adjust her status to that of a lawful permanent resident. Although her decision is on appeal, the government appeals based on unreliable evidence it submitted in her case—evidence the Immigration Judge gave no more than minimal weight due to its unreliability. Decl. of Hilary Smith, Exh. 3, Decision of the Immigration Judge.[1] The government will have to show the judge made a clear error in this factual finding.

24. Remaining in detention after both a due process violation and a grant of asylum constitutes irreparable injury. *Hernandez*, 872 F.3d at 999. ("[U]nlawful detention certainly constitutes extreme or very serious damage, and that damage is not compensable in damages.").

25. Further, her detention is going to be further prolonged. Because the government appealed the grant of the Immigration Judge, there is no reliable timeline for when the Board will decide

[1] Only the first page of the decision has been submitted in order to preserve the sensitive details of Petitioner's asylum claim.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

her appeal. Likely, she will be detained for at least another six months. Exh. 5, BIA Completions by Total & Average Processing Times (indicating detained appeals take, on average, 190 days). It is not permissible to let this harm continue any longer than it already has.

26. Petitioner's detention inflicts substantial harm on her because she is separated from her support system, which includes her U.S. citizen fiancé. Such "separation from family members" is an important irreparable harm factor. *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (per curiam) (citation omitted); *see also, e.g.*, *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (per curiam) (finding "separated families" to be a "substantial injur[y] and even irreparable harm[]"); *cf. Hernandez*, 872 F.3d at 996 (recognizing that "government compelled [family] separation" causes family members "trauma" and "other burdens"). Over the past four years, Petitioner has made a life for herself in the United States, a life that was not possible and would have been a death sentence in Afghanistan under the Taliban's rule.

27. Lastly, the conditions in detention are abysmal, especially for someone who suffered intense and prolonged physical, emotional, and sexual abuse in the past, abuse that led to suicidal ideation and self-harm, as was discussed and evidenced at her asylum hearing. Petitioner is currently suffering a mental health crisis due to her prolonged detention, withdrawing from communicating with her friends and family and asking them not to visit her anymore.

28. Courts have found that reliable reports highlight the "subpar medical and psychiatric care in ICE detention facilities." *Hernandez*, 872 F.3d at 995. Former detainees have described conditions and their time at NWIPC as "a nightmare"—staff is not fully equipped to handle medical concerns, detainees often suffer irreparable damages, and the conditions lead to mental

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

health crises.[2] Petitioner does not know how much longer she can wait out the process in detention, despite her grant of asylum. She is not getting the care and support she needs given the trauma she experienced in her past. She remained hopeful that the government would not appeal her decision, but that hope was dashed when the government filed its appeal on the last day it could, without giving her any notice.

29. Petitioner has demonstrated that she has suffered and will continue to suffer irreparable harm and this factor weighs in favor of granting her motion for a temporary restraining order.

D. The balance of equities tips in favor of Petitioner, and an injunction is in the public interest.

30. The remaining two factors for an injunction are the same under both legal tests, and they both favor Petitioner.

31. The balance of the equities and public interest analyses merge when the government is the opposing party, as is the case here. *See Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

32. A violation of Petitioner's constitutional rights through prolonged detention would cause her continued immense harm whereas the burden on the government in releasing her would be minimal.

33. "Just as the public has an interest in the orderly and efficient administration of this country's immigration laws, the public has a strong interest in upholding procedural protections

[2] "Conditions inside Northwest ICE Processing Center 'a nightmare,'" Sharon Yoo, KING 5 (Oct. 31, 2025). Available at: https://www.king5.com/article/news/community/facing-race/washington-immigration/nightmare-conditions-inside-ice-detention-center-tacoma/281-1c20754c-93c6-4514-a989-e39ce5cf89d3.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

against unlawful detention." *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 U.S. Dist. LEXIS 136002, at *6 (E.D. Cal. July 16, 2025) (internal quotation marks omitted).

34. Petitioner faces weighty hardships: a loss of her liberty and separation from her family, friends, and support system. The government faces no hardship—all it must do is release a person who they had previously granted humanitarian parole and lived in the United States without incident for nearly four years while actively pursuing asylum, which has now been granted.

35. There is no public interest in keeping Petitioner in detention who is "held in immigration detention because of . . . a likely [illegal] process[,]" *Hernandez*, 872 F.3d at 996, especially considering "that costs to the public of immigration detention are staggering." *Zapata v. Kaiser*, No. 25-cv-07492-RFL, 2025 U.S. Dist. LEXIS 190934, at *38 (N.D. Cal. Sept. 26, 2025).

36. Finally, that Petitioner has shown a likelihood of success on the merits tips the public interest further in her favor. *Riley's Am. Heritage Farms v. Elsasser*, 32 F.4th 707, 731 (9th Cir. 2022) (quoting *Melendres*, 695 F.3d at 1002).

37. The third and fourth *Winter* factors weigh in favor of Petitioner's request for the requested relief.

E. Immediate release is warranted.

38. This Court should order Petitioner's immediate release. "[A] postdeprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty." *E.A. T.-B.*, 2025 WL 2402130, at *6. In other words, Petitioner's unlawful detention without a pre-deprivation hearing is already occurring and has been occurring for over six months, and only immediate release remedies that issue. Moreover,

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

the evidence here demonstrates that Petitioner has made every effort to follow the law: receiving parole and applying for and being granted asylum. As a result, the Court should order his immediate release and provide that Petitioner may only be re-detained if ICE justifies re-detention by clear and convincing evidence at a hearing where ICE is required to demonstrate Petitioner is a flight risk or danger to the community.

E. In the alternative, Petitioner requests a bond hearing within seven days.

39. Alternatively, Petitioner's detention is now prolonged. She has been detained for over six months, and due process requires, at a minimum, an individualized determination before an Immigration Judge to assess her dangerousness or flight risk. *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942 (9th Cir. 2008).

40. While her NTA charges her an "arriving alien," that is not accurate. Because Petitioner was granted parole in 2021 and had been in the United States for nearly four years when she was detained, she can no longer be considered an "arriving alien." Marina V.N. v. Robbins, No. 1:25-cv-01845-KES-SKO (HC), 2025 U.S. Dist. LEXIS 263387, at *6 (E.D. Cal. Dec. 21, 2025) ("Section 1225(b)(1) applies to "an alien . . .who is arriving in the United States or . . . [a]n alien . . . who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility . . . .").

41. Respondent is detained under 8 U.S.C. § 1226(a) and is entitled to a bond hearing.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

42. For similar reasons as above, Petitioner has shown a likelihood of success on the merits of this claim, she continues to suffer irreparable harm, and the balance of equities tips sharply in her favor when considering whether she is entitled to an immediate bond hearing.

WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus and in this Motion, the Petitioner respectfully requests this Court:

A. Grant this Motion for Temporary Restraining Order today;

B. Enter the Proposed Order Granting Petitioner's Motion for Temporary Restraining Order today, granting the following relief:

1. Immediately release Petitioner from Respondent's custody on the same conditions she was subject to immediately prior to her detention on July 25, 2025;
2. Enjoin and restrain Respondent's from re-detaining Petitioner for any purpose, absent exigent circumstances, without providing Petitioner written notice and a pre-detention hearing before a neutral adjudicator;;
3. In the alternative, enjoin Respondents from continuing to detain Petitioner unless they provide her with an individualized bond hearing before an immigration judge under 8 U.S.C. § 1226(a) within ten (10) days of the date of this Order.

4. Grant such other and further relief as justice may require.

Respectfully submitted this 5th day of February,

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

/s/ Hilary Smith
Hilary Smith
Attorney for Petitioner

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98102
(206) 929-3880
hilary.smith@ghp-law.net

Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RONIA MOHAMMADI, Petitioner, v. PAMELA BONDI, *et al.*, Respondents.	Case No. 2:26-cv-00420-MLP NOTICE OF INTENT TO OPPOSE MOTION FOR A TEMPORARY RESTRAINING ORDER

Pursuant to Local Civil Rule 65(b)(5), Federal Respondents respectfully submit this notice of intent to oppose Petitioner's Motion for Temporary Restraining Order ("TRO") (Dkt. 2), should the Court determine that a response is necessary. If the Court requires briefing, Federal Respondents respectfully request a meaningful opportunity to respond.

However, the Court should deny the TRO without ordering a response because: (1) the Petitioner may raise national security concerns that require careful review on a full, non-abbreviated timeline; (2) the motion fails to establish any basis contemplated by General Order 10-25 for adjudicating the underlying habeas petition on the emergency timeline applicable to a TRO; and (3) the TRO is procedurally deficient.

First, this matter may implicate national security considerations that necessarily warrant

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

careful review that simply cannot be completed on a truncated timetable. Any case that potentially flags national security concerns warrants a more detailed assessment than can be completed within the abbreviated timeline of TRO proceedings. Granting emergency relief without such analysis could create irreparable harm to Respondents and the public at large. The Court's orderly habeas process is designed to permit precisely the type of considered review that these concerns demand.

Second, Petitioner presents no facts separating this case from any other immigration habeas petition subject to General Order 10-25.

On December 19, 2025, the United States District Court for the Western District of Washington issued General Order 10-25 regarding immigration habeas petitions under 28 U.S.C. § 2241. Paragraph 5 of General Order 10-25 provides:

> "The standard scheduling order is intended to provide a prompt resolution to habeas petitions that should reduce the contemporaneous filing of motions for temporary restraining orders seeking release from custody or the relief that is otherwise requested by the habeas petition. Motions for temporary restraining orders should be reserved for matters where the petitioner alleges imminent, irreparable harm, ***such as imminent removal from the United States***."

GO 10-25 (emphasis added).

The limited category of TROs contemplated by General Order 10-25 addresses circumstances that adjudication of the habeas petition could not remedy, such as an imminent removal from the United States that would render the Court's eventual decision meaningless. The General Order thus requires a date-certain event threatening to defeat the very relief sought in habeas—most notably, removal from the United States. Here, however, Petitioner seeks only release from the Northwest ICE Processing Center ("NWIPC"), the identical relief requested in her habeas petition. She identifies no impending event that would moot habeas review, and she seeks no relief beyond what ordinary adjudication of the petition would provide. Under the plain

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

terms of the General Order, such circumstances do not warrant emergency TRO intervention.

Indeed, the TRO here challenges the same detention conditions faced by all other detainees at the NWIPC and alleges generalized mental anguish that many asylum seekers could assert. If those allegations were sufficient for a TRO, many—if not most—habeas cases could qualify for a TRO, rendering General Order 10-25 meaningless in the aggregate. The unprecedented habeas docket this District has worked diligently to manage could again become unworkable, and the purpose of the General Order to create prompt but orderly resolution could be defeated. This motion effectively seeks to skip the line of pending habeas cases without any persuasive justification. Thus, Petitioner cannot demonstrate immediate, irreparable harm, and the Court should decline to issue a TRO.

Third, Petitioner's TRO motion does not satisfy Federal Rule of Civil Procedure 65(b). Rather than presenting specific, verified facts demonstrating immediate injury, Petitioner merely repeats facts from her habeas petition and recites the general legal factors governing TROs without adding any facts establishing irreparable harm beyond ordinary habeas relief. Such pleading is insufficient to invoke the Court's emergency powers, especially where General Order 10-25 precludes this type of TRO.

For these reasons, Respondents respectfully request that the Court deny the TRO without requiring further opposition briefing and proceed with adjudication of the habeas petition in accordance with General Order 10-25. This approach faithfully applies Rule 65, honors the Court's General Order, and ensures that any matters potentially implicating national security receive the deliberate consideration they require.

//

//

//

UNITED STATES ATTORNEY
700 STEWART STREET, SUITE 5220
SEATTLE, WASHINGTON 98101
(206) 553-7970

Dated this 5th day of February, 2026.

Respectfully submitted,

s/ Alixandria K. Morris
ALIXANDRIA K. MORRIS
Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101
Phone: 206-553-7970
Fax: 206-553-4067
Email: alixandria.morris@usdoj.gov

Attorney for Federal Respondents

The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RONIA MOHAMMADI, Petitioner, v. PAMELA BONDI, *et al.*, Respondents.	No. C26-420-MLP RESPONDENTS' RETURN AND MOTION TO DISMISS NOTE ON MOTION CALENDAR: FEBRUARY 20, 2026 ORAL ARGUMENT REQUESTED

Respondents Pamela Bondi, United States Attorney General; Kristi Noem, Secretary of U.S. Department of Homeland Security ("DHS"); Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement ("ICE"); and Laura Hermosillo, Field Office Director, ICE Seattle Field Office, in their official capacities, hereby file this return and motion to dismiss the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 ("Petition"), as directed by the Court in its order entered on February 9, 2026. *See* ECF No. 10.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

TABLE OF CONTENTS

INTRODUCTION 1
BACKGROUND 1
I. Relevant Statutory Framework 1
A. Parole Authority Under 8 U.S.C. § 1182(d)(5)(A) 1
B. Detention Authority Pursuant to 8 U.S.C. § 1225(b) 3
C. Administrative Procedure Act 3
II. Relevant Factual and Procedural Background 4
STANDARD OF REVIEW 6
III. Writ of Habeas Corpus (Count III) 6
IV. Dismissal for Lack of Subject Matter Jurisdiction Under Rule 12(b)(1) 6
V. Dismissal for Failure to State a Claim for Relief Under Rule 12(b)(6) 7
ARGUMENT 7
I. The Civil Claims Should be Dismissed (Counts I & II) 7
D. Civil Claims Are Not Appropriately Combined with a Habeas Petition 7
E. Counts I and II are Moot: Petitioner Does Not Show How Expired Parole Redresses the Purported Injury of Revoked Parole. 9
F. The Court Lacks Jurisdiction to Review the Revocation of Her Discretionary, Temporary, Now-Expired Parole. 10
G. Petitioner Fails to State a Claim That The Parole Revocation Was Unlawful. 13
H. Counts I and II Fail on the Merits Because Petitioner Pleads Facts Indicating She Is Ineligible for Further Parole. 17
I. Count I Fails As There Is No Due Process Interest in Discretionary Benefits 18
II. Petitioner's Habeas Petition Fails and Should Be Denied (Count III) 19
A. Petitioner's Detention Complies with Statute 19
B. Petitioner's Detention Comports with Due Process 22
CONCLUSION 25

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

TABLE OF AUTHORITIES

Cases **Page(s)**

Amanullah v. Nelson,
811 F.2d 1 (1st Cir. 1987) 16

Ashemuke v. ICE Field Off. Dir.,
2024 U.S. Dist. LEXIS 73224 (W.D. Wash. Feb. 29, 2024) 22–23

Baaghil v. Miller,
1 F.4th 427 (6th Cir. 2021) 17

Banda v. McAleenan,
385 F. Supp. 3d 1099 (W.D. Wash. 2019) 21–22

Bennett v. Spear,
520 U.S. 154 (1997) 4

Biden v. Texas,
597 U.S. 785 (2022) 3

Bolante v. Keisler,
506 F.3d 618 (7th Cir. 2007) 13

Bouarfa v. Mayorkas,
604 U.S. 6 (2024) 11

Burnam v. Marberry,
313 F. App'x 455 (3d Cir. 2009) 8

Bustamante v. Mukasey,
531 F.3d 1059 (9th Cir. 2008) 17

Camden Cnty. Beverage Co. v. Blair,
46 F.2d 655 (3d Cir. 1931) 9

Canada v. Olmsted Cty. Cmty. of Corr.,
2022 U.S. Dist. LEXIS 35863 (D. Minn. Mar. 1, 2022) 8

Chiang v. Skeirik,
582 F.3d 238 (1st Cir. 2009) 17

Demore v. Kim,
538 U.S. 510 (2003) 24

Dep't of Homeland Sec. v. Thuraissigiam,
591 U.S. 103 (2020) 8, 19, 20

Dep't of State v. Muñoz,
602 U.S. 899 (2024) 16, 17

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

Doan v. INS,
160 F.3d 508 (8th Cir. 1998) 17

Doe v. Noem,
152 F.4th 272 (1st Cir. 2025) 14

Duvine v. Hermosillo,
2026 U.S. Dist. LEXIS 13720 (W.D. Wash. Jan. 9, 2026) 22, 23, 24

Ferreira v. Mayorkas,
767 F. Supp. 3d 929 (N.D. Cal. 2025) 15

Garcia-Jimenez v. ICE Field Office Dir.,
2015 U.S. Dist. LEXIS 130442 (W.D. Wash. Aug. 27, 2015) 13

Gerhart v. Lake Cnty., Mont.,
637 F.3d 1013 (9th Cir. 2011) 18

Gisbert v. U.S. Att'y Gen.,
988 F.2d 1437 (5th Cir. 1993) 14

Gonzales-Gandini v. Holder,
384 F. App'x 658 (9th Cir. 2010) 2

Guerra v. VA,
2026 U.S. Dist. LEXIS 23499 (W.D. Wash. Feb. 4, 2026) 6, 7

Guerrier v. Garland,
18 F.4th 304 (9th Cir. 2021) 20

Hassan v. Chertoff,
593 F.3d 785 (9th Cir. 2010) 11

J. E. F.M. v. Lynch,
837 F.3d 1026 (9th Cir. 2016) 12

Janjua v. Neufeld,
933 F.3d 1061 (9th Cir. 2019) 21

Jennings v. Rodriguez,
583 U.S. 287 (2018) 3, 19

Kerry v. Din,
576 U.S. 86 (2015) 16

Kleindienst v. Mandel,
408 U.S. 753 (1972) 17

Kucana v. Holder,
558 U.S. 233 (2010) 10

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

Kwai Fun Wong v. United States INS,
373 F.3d 952 (9th Cir. 2004) 18

L.M. v. Noem,
2026 U.S. Dist. LEXIS 6869 (D. Nev. Jan. 14, 2026) 2, 21

Lorenzo v. Taylor,
2018 U.S. Dist. LEXIS 32803 (D.N.J. Feb. 28, 2018) 18

Martinez v. LaRose,
980 F.3d 551 (6th Cir. 2020) 20

Mason v. Brooks,
862 F.2d 190 (9th Cir. 1988) 16

Matter of M-S-,
27 I. & N. Dec. 509 3

Mendoza-Linares v. Garland,
51 F.4th 1146 (9th Cir. 2022) 20

Mendoza-Linares v. Garland,
2024 U.S. Dist. LEXIS 103006 (S.D. Cal. June 10, 2024) 20

Monroy v. DHS,
396 F. Supp. 3d 1206 (S.D. Fla. 2019) 15-16

Montero-Martinez v. Ashcroft,
277 F.3d 1137 (9th Cir. 2002) 10

Morales de Soto v. Lynch,
824 F.3d 822 (9th Cir. 2016) 15

Northwest Res. Info. Ctr. v. Nat'l Marines Fisheries Serv.,
56 F. 3d 1060 (9th Cir. 1995) 9

Odimara v. Bostock,
2024 U.S. Dist. LEXIS 149107 (W.D. Wash. July 12, 2024) 22, 23–24, 24

Olim v. Wakinekona,
461 U.S. 238 (1983) 19

Parzenn Partners, LLC v. Baran,
2020 U.S. Dist. LEXIS 178633 (D. Mass. Sep. 29, 2020) 16

Petitfrere v. Austin,
2023 U.S. Dist. LEXIS 146547 (D.D.C. Aug. 21, 2023) 15

Pinson v. Carvajal,
69 F.4th 1059 (9th Cir. 2023) 8

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

Poursina v. U.S.C.I.S.,
936 F.3d 868 (9th Cir. 2019) 10–11

Prieto-Romero v. Clark,
534 F.3d 1053 (9th Cir. 2008) 3, 24

Rahayel v. McCampbell,
55 F.2d 221 (2d Cir. 1932) 9

Rauda v. Jennings,
8 F.4th 1050 (9th Cir. 2021) 20

Rodriguez Diaz v. Garland,
53 F.4th 1189 (9th Cir. 2022) 20

S.A. v. Trump,
363 F. Supp. 3d 1048 (N.D. Cal. 2018) 18

Saavedra Bruno v. Albright,
197 F.3d 1153 (D.C. Cir. 1999) 17

Seila Law LLC v. CFPB,
591 U.S. 197 (2020) 15

Shaughnessy v. United States ex rel. Mezei,
345 U.S. 206 (1953) 19, 22

Spencer v. Kemna,
523 U.S. 1 (1998) 9

Spencer Enters., Inc. v. United States,
345 F.3d 683 (9th Cir. 2003) 10

Tazu v. Att'y Gen. U.S.,
975 F.3d 292 (3d Cir. 2020) 20

Trump v. Hawaii,
585 U.S. 667 (2018) 14–15, 16

United States v. Bernard,
625 F.2d 854 (9th Cir. 1980) 23

United States v. Chem. Found., Inc.,
272 U.S. 1 (1926) 14

United States v. Edwards,
154 F.3d 915 (9th Cir. 1998) 23

United States v. Guzman,
998 F.3d 562 (4th Cir. 2021) 20

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

United States v. Howard,
962 F.3d 1013 (8th Cir. 2020) 15

United States v. Leal-Del Carmen,
697 F.3d 964 (9th Cir. 2012) 13

Vazquez Romero v. Garland,
999 F.3d 656 (9th Cir. 2021) 11

Zadvydas v. Davis,
533 U.S. 678 (2001) 22

Zelaya-Gonzalez v. Matuszewski,
2023 U.S. Dist. LEXIS 72761 (S.D. Cal. Apr. 25, 2024) 20

Zia v. Garland,
112 F.4th 1194 (9th Cir. 2024) 11–12

Statutes

5 U.S.C. § 701 ..... *passim*
5 U.S.C. § 702 ..... 3, 10
5 U.S.C. § 706 8
8 U.S.C. § 1101 17
8 U.S.C. § 1182 ..... *passim*
8 U.S.C. § 1225 ..... *passim*
8 U.S.C. § 1252 ..... 10, 12, 13
28 U.S.C. § 2241 ..... 1, 6

Other

8 C.F.R. § 212.5 ..... *passim*
8 C.F.R. § 1001.1 3
Fed. R. Civ. P. 12 ..... 6, 7

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 532-4523

INTRODUCTION

Petitioner, Ronia Mohammadi, is a native and citizen of Afghanistan whom DHS believes to be an operative of the Islamic State of Iraq and Ash-Sham ("ISIS") engaging in espionage in Washington State. ISIS is a jihadi organization that engages in "indiscriminate killing and deliberate targeting of civilians, mass executions and extrajudicial killings, persecution..., kidnapping of civilians, forced displacement..., killing and maiming of children, rape and other forms of sexual violence, along with numerous other atrocities."[1] Like Rahmanullah Lakanwal, the alleged perpetrator behind the horrific murders of two National Guardsmen in Washington, D.C. just before Thanksgiving 2025,[2] Petitioner was improvidently granted temporary, discretionary "humanitarian parole" into the country from abroad on September 1, 2021, just two days after the U.S. withdrawal from Afghanistan, and resettled in Washington State. But unlike Lakanwal, in July 2025—a few short weeks before her parole was to expire anyway in August 2025—Petitioner's parole was revoked and she was placed into removal proceedings, and detained by ICE pending the conclusion of those removal proceedings. *See* Declaration of Deportation Officer Joseph Carnevale ("Decl."), Exhibit ("Ex.") A, ¶¶ 4–7, Ex. 1, 2.

In her Petition ("Pet."), Petitioner claims she has a due process right to remain at large in this country, as well as due process and statutory rights to temporary, discretionary immigration benefits. She is wrong. Her civil claims must be dismissed and her Petition denied.

BACKGROUND

I. Relevant Statutory Framework

A. Parole Authority Under 8 U.S.C. § 1182(d)(5)(A)

Humanitarian parole is a colloquial term for the parole authority vested with the Secretary of DHS under 8 U.S.C. § 1182(d)(5)(A), which provides that "[t]he Secretary of Homeland

[1] *About Us – The Global Coalition to Defeat ISIS*, U.S. Dept. of State, https://www.state.gov/about-us-the-global-coalition-to-defeat-isis/ (accessed Feb. 16, 2026).

[2] Camilo Montoya-Galvez, *What we know about the vetting and immigration process of National Guard shooting suspect Rahmanullah Lakanwal*, CBS News (Dec. 1, 2025, at 4:12 PM EST), https://www.cbsnews.com/news/rahmanullah-lakanwal-national-guard-shooting-suspect-vetting-immigration/

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

Security may . . . *in [her] discretion* parole into the United States temporarily *under such conditions* as [s]he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." 8 U.S.C. § 1182(d)(5)(A) (emphasis added); *see also* 8 C.F.R. § 212.5. Parole allows a beneficiary to physically enter and remain in the U.S. for a limited time but confers no immigration status. *Id.* § 1182(d)(5)(A) ("such parole of such alien shall not be regarded as an admission of the alien").

Parole may be terminated either automatically or with notice to the beneficiary. *See* 8 C.F.R. 212.5(e). Parole terminates automatically when it expires or the beneficiary departs from the United States. *See id.* § 212.5(e)(1). If either circumstance occurs, "no written notice shall be required." *Id.* Parole may also be terminated with notice to the beneficiary "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[.]" *Id.* § 212.5(e)(2)(i); *see also Gonzales-Gandini v. Holder*, 384 F. App'x 658, 659 n.4 (9th Cir. 2010) (§ 212.5(e)(2) "permits termination of parole on notice even if the purpose for which the advance parole was granted . . . has not been fulfilled."). Upon "written notice" to the beneficiary, parole is terminated, and "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). Critically, "written notice" procedural requirement is satisfied "[w]hen a charging document is served on the alien[.]" *See id.* ("the charging document will constitute written notice of termination of parole[.]"). Under § 1182(d)(5)(A), no additional notice or explanation of the reasons why parole is terminated are required. *See L.M. v. Noem*, No. 2:25-cv-2194-RFB-BNW, 2026 U.S. Dist. LEXIS 6869, at *9–10 (D. Nev. Jan. 14, 2026) ("The requirement of written notice is the *only* safeguard, for both the alien and the United States government, that parole status is administered in an orderly manner.") (quoting *United States v. Lagarda-Aguilar*, 617 F.2d 527 (9th Cir. 1980) (emphasis added)). Accordingly, the decision to terminate parole is discretionary and can be done via service of written notice; no explanation of the termination is required by statute.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

B. Detention Authority Pursuant to 8 U.S.C. § 1225(b)

Upon termination, the applicant's status at the time parole was granted (i.e., an applicant for admission) is restored. *See* 8 U.S.C. § 1225(a)(1) (defining an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated point of arrival.)."); *see also Jennings v. Rodriguez*, 583 U.S. 287 (2018). An "arriving alien" includes a person who is "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1001.1(q); *see Matter of M-S-*, 27 I. & N. Dec. 509, 510 (A.G. 2019).

Notably, the INA mandates the detention of applicants for admission. 8 U.S.C. §§ 1225(b)(1), (b)(2); *see also Jennings*, 583 U.S. at 287 (applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)."). "Where an alien falls within this statutory scheme can affect whether his detention is mandatory or discretionary, as well as the kind of review process available to him if he wishes to contest the necessity of his detention." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). If an alien "indicates an intention to apply for asylum," the alien proceeds through the credible fear process and is subject to mandatory detention "for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii).[3] Mandatory detention under Section 1225(b)(1)(B)(ii) continues "for so long as that review is ongoing" and "until removal proceedings conclude." *Matter of M-S-*, 27 I. & N. Dec. at 516. While § 1225 does not provide for aliens to be released on bond, DHS has the sole and unreviewable discretion to release any applicant for admission on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

C. Administrative Procedure Act

The Administrative Procedure Act, 5 U.S.C. § 701, *et seq.* ("APA"), "authorizes suit by [a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by

[3] Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. The Supreme Court recognized that 1225(b)(2) "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.*

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

agency action within the meaning of a relevant statute." 5 U.S.C. § 702. However, the APA is inapplicable where: (1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law. 5 U.S.C. § 701(a); *Bennett v. Spear*, 520 U.S. 154, 175 (1997).

II. Relevant Factual and Procedural Background

Petitioner is a native and citizen of Afghanistan. Pet. ¶¶ 6, 17; Decl. ¶ 3. On September 1, 2021, Petitioner entered the United States at the Philadelphia International Port of Entry as an arriving alien and was granted temporary authorization to physically remain in the United States until August 31, 2025,[4] as part of Operation Allies Welcome ("OAW"),[5] formerly known as Operation Allies Refuge ("OAR").[6] Pet. ¶¶ 2, 17; Decl. ¶ 4. On November 21, 2022, Petitioner filed an application for asylum. Pet. ¶¶ 18, 21; Decl., Ex. 3. Per ICE record checks for criminal history, Petitioner returns a result of 4th Degree Assault/Domestic Violence[7] dated May 11, 2025. *See* Decl., Ex. 1.

On July 14, 2025, U.S. Customs and Border Patrol ("CBP") was informed that Petitioner did not possess documentation that would allow her to remain in the United States legally. Decl. ¶ 5. On July 25, 2025, after confirming her identity, CBP took Petitioner into custody and served Petitioner with a Notice to Appear ("NTA") informing her that she was being charged under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant who lacked documentation authorizing her presence in the United States. Pet. ¶¶ 19, 20; Decl. ¶¶ 6, 7, 22, Ex. 1. The NTA also cited 8 C.F.R. § 212.5(e) in explaining that Petitioner's parole was terminated. *See* Decl., Ex. 1.

---

[4] For many Afghan arrivals (including Petitioner), the initial parole period was two years, followed by a streamlined "re-parole" process administered by U.S. Citizenship & Immigration Services ("USCIS"). Afghans were eligible for re-parole if they had been paroled under OAW or OAR previously. *Re-Parole Process for Certain Afghans Nationals*, U.S. Citizenship & Immigration Services (updated Apr. 25, 2025), https://www.uscis.gov/humanitarian/information-for-afghan-nationals/re-parole-process-for-certain-afghans-nationals

[5] Most Afghans who arrived through OAR were paroled by Border Patrol at a port-of-entry under § 1182(d)(5)(A) without a prior adjudication by another DHS agency.

[6] The difference between OAR and OAW is in name only. *Information for SAVE Users: Afghan Arrival Categories, Documentation, and SAVE Responses*, U.S. Citizenship & Immigration Services (May 6, 2024) https://www.uscis.gov/save/information-for-save-users-afghan-arrival-categories-documentation-and-save-responses#_ftnref1

[7] *See* Revised Code of Washington 9A.36.041.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

On July 31, 2025, Petitioner filed a Bond Redetermination Request with the Executive Office of Immigration Review ("EOIR"). Decl. ¶ 8. On August 7, 2025, a Bond Hearing was held before an Immigration Judge ("IJ"), who informed Petitioner's counsel that there was no jurisdiction because Petitioner is an arriving alien, prompting Petitioner to withdraw her request. Decl. ¶ 9, Ex. 3. On September 16, 2025, a Tacoma IJ sustained the charge of removability and set an individual hearing for October 10, 2025. Decl. ¶ 10, Ex. 4. The DHS filed a motion to continue the hearing on October 7, 2025, which was granted on October 10, 2025, prompting the hearing to be rescheduled to November 5, 2025. Decl. ¶ 12. On October 22, 2025, Petitioner filed a second Bond Redetermination Request with EOIR. Decl. ¶¶ 13, 24, Ex. 3. On October 27, 2025, a second Bond Hearing was held before an IJ, who denied the request due to a lack of jurisdiction, prompting Petitioner to withdraw the request. Decl. ¶¶ 14, 24, Ex. 3.

On November 4, 2025, DHS filed evidence that Petitioner is a member of ISIS who is carrying out intelligence activities in Washington. Decl. ¶¶ 15, 27, Ex. 6. On November 4, 2025, Petitioner's counsel filed a motion to withdraw and to continue, which was granted on November 5, 2025, resetting the individual hearing for December 2, 2025. Decl. ¶¶ 16, 17. On December 1, 2025, Petitioner filed a motion to suppress the DHS's evidence, which was denied on December 2, 2025. Decl. ¶¶ 18, 19. On December 2, 2025, Petitioner's individual calendar hearing was held, and the matter was set to issue a written decision. Pet. ¶ 22; Decl. ¶ 19. On December 23, 2025, the IJ issued a written decision granting Petitioner's asylum request. Pet. ¶ 22, Ex. 3; Decl. ¶¶ 20, 25, Ex. 4. On January 22, 2026, DHS appealed the December 23 written decision to the Board of Immigration Appeals. Pet. ¶ 23, Ex.4; Decl. ¶¶ 21, 26, Ex. 5.

Petitioner is detained at the Northwest ICE Processing Center ("NWIPC") pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) pending the appeal of her asylum request. On February 6, 2026, Petitioner filed her Petition, challenging her continued detention at the NWIPC. Petitioner seeks a writ of habeas corpus ordering her immediate release from custody. *See* Pet., Prayer for Relief ¶ b. In the alternative, Petitioner seeks a bond hearing within seven days, and an order requiring

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

her immediate release "without bond, ankle monitor, or other conditions" if the government does not establish Petitioner's "dangerousness or flight risk." *See id.* ¶¶ c, d.

To warrant such relief, Petitioner asserts three claims. In her first claim, Petitioner alleges that her detention violates the Due Process Clause of the Fifth Amendment because "she did not receive notice of the reasons for the revocation of her parole prior to its expiration." Pet. ¶ 35. In the second, Petitioner alleges that Respondents violated the APA because "there was never any written explanation as to why her humanitarian parole was revoked or cancelled upon her arrest" and that the categorial revocation of Petitioner's parole and detainment "without consideration of her individualized facts" amounted to account that "was arbitrary, capricious, an abuse of discretion, and not in accordance with the law." Pet. ¶¶ 40–43. In her third claim, Petitioner alleges that "due process requires" she "be afforded a bond hearing" such that an IJ can determine if she is dangerous or poses a flight risk in light of her "prolonged" detention. *Id.* ¶¶ 45–46. Petitioner further alleges that "she can no longer be considered an arriving alien" because of her time in the United States. *Id.* ¶ 47.

After denying Petitioner's motion for temporary restraining order, the Court ordered Respondents to file a response to the Petition. *See generally* ECF Nos. 8, 10.

STANDARD OF REVIEW

III. Writ of Habeas Corpus (Count III)

Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. A petitioner bears the burden to prove she is entitled to the granting of the writ of habeas corpus by demonstrating that her *custody* violates the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3).

IV. Dismissal for Lack of Subject Matter Jurisdiction Under Rule 12(b)(1)

A motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) challenges a court's subject matter jurisdiction over a dispute. In evaluating a Rule 12(b)(1) motion, the Court may consider evidence extrinsic to the allegations in a pleading and is not required to accept the allegations as true. *See Guerra v. VA*, No. C25-693-JCC, 2026 U.S. Dist. LEXIS 23499, *4 n.4 (W.D. Wash.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

Feb. 4, 2026). The party asserting the existence of subject matter jurisdiction bears the burden of proving that jurisdiction exists to survive a Rule 12(b)(1) challenge. *See id.*

V. Dismissal for Failure to State a Claim for Relief Under Rule 12(b)(6)

A motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) challenges the legal sufficiency of the well-pled allegations in a pleading, which are taken as true and construed in a light most favorable to the nonmovant. *See Guerra*, 2026 U.S. Dist. LEXIS 23499, *4. "However, conclusory allegations of law and unwarranted inferences will not defeat an otherwise proper Rule 12(b)(6) motion." *Id.* "Thus, to avoid dismissal, a plaintiff must point to factual allegations that 'state a claim to relief that is plausible on its face.'" *Guerra*, 2026 U.S. Dist. LEXIS 23499, *4 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678, (2009)).

ARGUMENT

In the Petition, Petitioner first improperly asserts two civil claims, which should not have been combined in a habeas petition. If not dismissed, these claims should be severed. In Counts I and II, Petitioner demands that the Court set aside DHS's revocation of her discretionary "humanitarian parole" in July 2025, claiming that this revocation violated the Due Process clause of the Fifth Amendment and the APA, respectively. These claims fail because the Immigration & Nationality Act ("INA") precludes review and, in any event, the claims are moot because her parole—even if not revoked—expired in August 2025. Claim III is a habeas claim, which seeks immediate release from detention in civil immigration custody or, alternatively, a bond hearing on the allegation that her detention is unconstitutional. For the following reasons, both of Petitioner's civil claims must be dismissed, and her habeas petition must be denied.

I. The Civil Claims Should be Dismissed (Counts I & II)

D. Civil Claims Are Not Appropriately Combined with a Habeas Petition.

As a threshold matter, Petitioner does not articulate how the alleged lack of "notice of the reasons for the revocation of her parole" or the lack of "any written explanation as to why her humanitarian parole was revoked" are challenges to the lawfulness her *current detention* or

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

mandate her immediate release. *See id.* ¶¶ 35, 41. In any event, the requested relief pertaining to her discretionary parole claims—an order setting aside the discretionary "revocation of Petitioner's humanitarian parole prior to its expiration"—would not result in her release, nor would her release result in a discretionary extension of her expired (and revoked) § 1182(d)(5)(A) parole. Pet. ¶ 17.

As explained by the Supreme Court, "the essence of habeas corpus is an attack by a person in custody *upon the legality of that custody*, and that the traditional function of the writ is to secure release from *illegal custody*." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 117 (2020) (emphasis added) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)) (citing *Wilkinson v. Dotson*, 544 U.S. 74, 79 (2005); *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). Because Counts I and II seek review of the legality of a discretionary agency action to revoke her temporary parole and do not challenge the legality of her current detention, they are not the appropriate subject of a writ of habeas corpus and must be dismissed without prejudice. *See Thuraissigiam*, 591 U.S. at 120 (habeas has not been "used to obtain anything like what is sought here, namely, authorization for an alien to remain in a country other than his own or to obtain administrative or judicial review leading to that result."); *Pinson v. Carvajal*, 69 F.4th 1059, 1071 (9th Cir. 2023) (". . . claims that if successful would not necessarily lead to the invalidity of the custody are not at the core of habeas corpus.").

In addition to straying from the core of habeas, there are also practical reasons why APA claims and habeas petitions cannot be combined into a single action. An APA claim is ordinarily resolved on an administrative record (5 U.S.C. § 706), whereas a habeas claim is restricted to the fact and duration of confinement and resolved on the papers. As a result, habeas claims are often adjudicated much more quickly than APA or other civil claims. *Burnam v. Marberry*, 313 F. App'x 455, 456 n.2 (3d Cir. 2009); *cf.* Local Rules W.D. Wash. LCR 100. Unsurprisingly, as many courts have held, combining non-habeas claims into a habeas petition is improper. *Id.* (explaining that the district court "should not have combined the habeas action and the claims under the Privacy Act and APA into a single case"); *Canada v. Olmsted Cty. Cmty. of Corr.*, No.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

21-CV-2120 (NEB/DTS), 2022 U.S. Dist. LEXIS 35863, at *18 (D. Minn. Mar. 1, 2022), *summarily aff'd*, 2022 U.S. App. LEXIS 28125 (8th Cir. July 27, 2022).

E. Counts I and II are Moot: Petitioner Does Not Show How Expired Parole Redresses the Purported Injury of Revoked Parole.

Petitioner's parole expired on August 31, 2025. *See* Pet. ¶¶ 2 ("Petitioner . . . received humanitarian parole that allowed her to remain in the United States for a period *not to exceed August 31, 2025*.") (emphasis added), 17. Because "time for which parole was authorized" has elapsed, Petitioner's parole "automatically terminated without written notice" and "no written notice [was] required." 8 C.F.R. 212.5(e)(1)(ii). Thus, at this point, Petitioner's challenge to the revocation of her now-expired parole does not present a live controversy. She lacks standing to challenge the revocation of parole when, on its terms, it is expired regardless.

It is well-established that when a litigant challenges an allegedly wrongful act on a time-limited matter, the expiration of the time limit on its own accord moots the challenge. *Northwest Res. Info. Ctr. v. Nat'l Marines Fisheries Serv.*, 56 F. 3d 1060, 1069 (9th Cir. 1995) (claim that agency violated the Endangered Species Act in issuing a permit was moot: "NRIC [the plaintiff] challenges an agency action that began and ended in 1993. The section 10 permit at issue expired on December 31, 1993, and the transportation program is now operating under a new section 10 permit valid from April 1, 1994 to December 31, 1998. Clearly, NRIC can no longer obtain any relief with regard to the transportation program for operational year 1993"); *Rahayel v. McCampbell*, 55 F.2d 221, 221 (2d Cir. 1932) (dismissing case as moot where appeal from decree denying review of revocation of alcohol withdrawal permit was argued over a year after revocation: "By its terms the permit would have expired . . . though we should decide the revocation to have been invalid, we could give no relief"); *Camden Cnty. Beverage Co. v. Blair*, 46 F.2d 655, 655 (3d Cir. 1931) (right to enjoin revocation of permit was moot question on expiration of permit pending appeal). Claims I and II are no different, and Petitioner does not allege how she is in a better position if her parole were to be deemed ended as of August 31, 2025 versus July 25, 2025. *Spencer v. Kemna*, 523 U.S. 1, 14 (1998) (finding no standing to

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

challenge the wrongful revocation of parole after completing the underlying sentence). Either way, her status would remain the same even if the revocation is set aside: she still lacks parole and she is considered an applicant for admission.

F. The Court Lacks Jurisdiction to Review the Revocation of Her Discretionary, Temporary, Now-Expired Parole.

At base, the second claim for relief challenges the legality of the revocation of Petitioner's parole under the APA, not the legality of her current detention. Section 702 of Title 5 of the U.S. Code confers a general cause of action upon persons "adversely affected or aggrieved by agency action within the meaning of a relevant statute." That cause of action is withdrawn where "statutes preclude judicial review" or "agency action is committed to agency discretion by law." 5 U.S.C. § 701(a)(1)–(2). Parole decisions are both precluded from judicial review by statute and are committed to agency discretion by statute. Thus, this Court cannot review the revocation of Petitioner's parole on jurisdictional grounds. Specifically, § 1252(a)(2)(B)(ii) states that,

> Notwithstanding any other provision of law (statutory or nonstatutory)..., and except as provided in subparagraph (D), and regardless of whether the judgment, decision, or action is made in removal proceedings, no court shall have jurisdiction to review... (ii) any other decision [than those listed in § 1252(a)(2)(B)(i)] or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security....

8 U.S.C. § 1252(a)(2)(B)(ii). As the Supreme Court has recognized, 8 U.S.C. § 1252(a)(2)(B)(ii) is a "catchall provision" which, when read together with subclause 8 U.S.C. § 1252(a)(2)(B)(i), "convey[s] that Congress barred court review of discretionary decisions only when Congress itself set out the Attorney General's discretionary authority in the statute." *Kucana v. Holder*, 558 U.S. 233, 247 (2010); *see also Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1143 (9th Cir. 2002) (§ 1252(a)(2)(B)(ii) "is a catch-all provision that serves to ensure that any unenumerated provisions [from § 1252(a)(2)(B)(i)] governing discretionary relief are covered" by the jurisdictional bar.); *Spencer Enters., Inc. v. United States*, 345 F.3d 683, 690 (9th Cir. 2003) (holding that provisions providing that the Attorney General "may" take certain action vest

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

unreviewable "ultimate authority . . . in the discretion of the Attorney General"); *Poursina v. U.S.C.I.S.*, 936 F.3d 868, 875 (9th Cir. 2019) (rejecting challenge to denial of national interest waiver the "decision to deny a national-interest waiver is specified to be in its discretion [by § 1153(b)(2)(B)(i)], § 1252(a)(2)(B)(ii) strips the federal courts of jurisdiction to review USCIS's refusal").

The decision to grant, deny, or revoke parole is one such decision committed to agency discretion that is covered by this jurisdictional bar. *See* 8 U.S.C. § 1182(d)(5)(A) (providing that "The Secretary of Homeland Security *may* . . . in [her] *discretion* parole in the United States temporarily under such conditions as [s]he may prescribe" applicants for admission and "when the purposes of such parole shall, *in the opinion of* the Secretary of Homeland Security, have been served the alien shall hereforthwith 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") (emphasis added); *see also* 8 C.F.R. § 212.5(e)(2)(i) (providing that "when in the opinion" of the Secretary of the DHS, "parole shall be terminated[.]").[8] In binding authority, the Ninth Circuit has expressly (and repeatedly) held that § 1182(d)(5)(A) parole decisions are not reviewable. In *Hassan v. Chertoff*, after finding it lacked jurisdiction to review the § 1255 adjustment determination, the Ninth Circuit affirmed the ruling that it lacked jurisdiction to review the revocation of parole under the terms of § 1182(d)(5)(A). 593 F.3d 785, 790 (9th Cir. 2010). Likewise, in *Vazquez Romero v. Garland*, the court held that "the jurisdiction-stripping provision of § 1252(a)(2)(B)(ii) applies to discretionary parole decisions under § 1182(d)(5)." 999 F.3d 656, 665 (9th Cir. 2021). Even if there were any statutory conditions predicate to revoking discretionary § 1182(d)(5)(A) parole (which there are not), the Court could still not review DHS's determination that Petitioner was eligible to have her parole revoked. *See Zia v. Garland*, 112 F.4th 1194, 1200 (9th Cir. 2024) ("We read 'any other decision or action' expansively to cover all determinations made in support of a grant of discretionary

[8] The Supreme Court has noted, "the word may clearly connotates discretion." *Bouarfa v. Mayorkas*, 604 U.S. 6, 13 (2024) (citing *Biden v. Texas*, 597 U.S. at 802 (internal quotations omitted)).

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

relief under subsection (ii)."). The Court cannot review the revocation because § 1252(a)(2)(B)(ii) precludes review under 5 U.S.C. § 701(a)(1).

In addition to the bar at § 1252(a)(2)(B)(ii), the decision to revoke Petitioner's parole arises out the commencement of her removal proceedings, and cannot be reviewed under 8 U.S.C. § 1252(a)(5), (b)(9), and (g). Under § 1252(b)(9), Congress consolidated all questions of law and fact into the petition for review process provided by § 1252(a)(5). 8 U.S.C. § 1252(b)(9) ("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. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus. . . ., or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact."). "Taken 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." *J. E. F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original). Further, per 8 U.S.C. § 1252(g), Congress stripped jurisdiction of jurisdiction over such claims: "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."

These provisions apply here. Petitioner's parole was revoked because DHS determined to place her into removal proceedings and served her with a charging document noticing that determination. 8 C.F.R. § 212.5(e)(2)(i) ("When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified."). The decision to revoke her parole arises from the decision to place her into removal proceedings, the decision to commence proceedings and revoke parole were the same decision, and were noticed together. She can attempt to seek review in a petition for review with the

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

appropriate court of appeals, but she cannot seek review of the institution of removal proceedings and the attendant parole revocation outside of that process. 8 U.S.C. § 1252(b)(9), (g).

Additionally (or alternatively), § 701(a)(2) also precludes review. Courts in this circuit have found that the "applicable statutory and regulatory provisions vest full discretion for humanitarian parole in the Attorney General, the Secretary of [DHS], and various DHS officials." *Garcia-Jimenez v. ICE Field Office Dir.*, No. C15-820-RSL-JPD, 2015 U.S. Dist. LEXIS 130442, at *4 (W.D. Wash. Aug. 27, 2015), *R&R adopted*, 2015 U.S. Dist. LEXIS 130463 (W.D. Wash. Sep. 28, 2015); *see United States v. Leal-Del Carmen*, 697 F.3d 964, 975 (9th Cir. 2012) ("[T]he federal government had exclusive authority to parole [an alien lacking a lawful immigration status] into the country . . . ."). Because the statute vests parole discretion with the Secretary, the INA precludes judicial review. 8 U.S.C. § 1252(a)(2)(B)(ii); *see also Bolante v. Keisler*, 506 F.3d 618, 621 (7th Cir. 2007) ("The Attorney General can and often does release the alien on parole, 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5, but his decision to do so is not judicially reviewable."). The APA does not apply under either 5 U.S.C. § 701(a)(1) or (2). The termination of Petitioner's parole is therefore unreviewable under § 1252(a)(2)(B)(ii), and thus, per 5 U.S.C. § 701(a), the APA does not apply.

G. Petitioner Fails to State a Claim That The Parole Revocation Was Unlawful.

In Petitioner's second claim for relief, Petitioner alleges that the government's purported failure to provide her with notice of the reasons why her parole was revoked and purported failure to consider her individualized facts in doing so amounted to a violation of the APA. Pet. ¶¶ 40–43. Because parole decisions are made in the discretion of the Executive, they are not reviewable under the APA. Notwithstanding the Court's lack of jurisdiction, Petitioner received sufficient notice of the reasons why her parole was revoked and does not establish that consideration of her individualized facts was required to do so.

While Petitioner complains that, in addition to the lack of a sufficient explanation of the revocation of her parole, the government violated the APA when it did so "without consideration

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

of her individualized facts[,]" Pet. ¶ 42, this allegation goes against the well-tread presumption of administrative regularity. *See, e.g.*, *United States v. Chem. Found., Inc.*, 272 U.S. 1, 14 (1926). Moreover, § 1182(d)(5)(A) does not require individualized determinations to cancel parole, nor explanations for those determinations. *Doe v. Noem*, 152 F.4th 272, 286 (1st Cir. 2025) ("Congress's decision to add the 'case-by-case' language only to the clause 'granting' parole suggests that it intended to narrow only DHS's ability to categorically grant parole, not to restrain a categorical termination of the same."); *Gisbert v. U.S. Att'y Gen.*, 988 F.2d 1437, 1443 (5th Cir. 1993) ("[t]he language of the statute does not require the Attorney General to parole any alien, nor does it mandate parole on any particular finding or findings or place any substantive restriction on the authority to deny parole."). As the First Circuit recently explained, the "case-by-case" language restricts the authority to *grant* parole, but it does not operate to restrict DHS's authority to revoke, deny, or terminate parole. *Doe*, 152 F.4th at 286 ("Giving every word effect, the statutory text thus reflects a deliberate choice on the part of Congress to require the Secretary to implement a case-by-case approach to granting parole, but not to end such grants. The statutory text, therefore, favors an interpretation that the 'case-by-case' requirement only limits the Secretary's discretion to grant parole."). DHS is not required to do more than what the statute requires.

In any event, the requirement to make determinations—assuming one exists—does not necessarily subsume a requirement to issue detailed explanations about the determination's underlying rationale. *E.g., Trump v. Hawaii*, 585 U.S. 667, 685–86 (2018) ("[T]he premise that §1182(f) not only requires the President to make a finding that entry 'would be detrimental to the interests of the United States,' but also to explain that finding with sufficient detail to enable judicial review... is questionable." (citing *Webster v. Doe*, 486 U. S. 592, 600 (1988)); *see also Arias v. Noem*, No. 5:22-CV-5248, 2025 U.S. Dist. LEXIS 59788, *18 (W.D. Ark. Mar. 31, 2025) ("[U]nder 9 FAM 302.5-4(B)(2)..., the consular officer must 'make clear findings in the case notes, setting forth in detail all the facts supporting a reason to believe that the applicant is a member of a criminal organization[.]'... But there is no requirement that those factual findings

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

be disclosed [to the applicant]"). At most, it is only when parole is granted that furnishing individualized explanations may be or may become necessary. *See, e.g.*, 8 U.S.C. § 1182(d)(5)(C) ("...the limitation under subparagraph (A) [is] that parole solely be granted on a case-by-case basis and solely for urgent humanitarian reasons or a significant public benefit"); *Biden v. Texas*, 597 U.S. at 815 (Kavanaugh, J. concurring) ("[W]hen . . . DHS chooses to parole noncitizens into the United States . . ., DHS must reasonably explain why parole provides a 'significant public benefit.'"). No explanation for parole denials or cancellations are required by § 1182(d)(5)(A)–(C). *Doe*, 152 F.4th at 286 (reversing "[t]he district court conclu[sion that] the termination of parole requires an individualized, rather than a categorical, analysis.").

In any event, unique or highly detailed decisions are not the *sine qua non* of bona fide decision-making regardless. *See, e.g.*, *United States v. Howard*, 962 F.3d 1013, 1015 (8th Cir. 2020) ("The district court... was uniquely positioned to consider the many factors necessary in exercising its ultimate discretion. The court's plain statement regarding its decision not to exercise its discretion... in this case closes the matter."); *Petitfrere v. Austin*, No. 1:22-cv-1819-RCL, 2023 U.S. Dist. LEXIS 146547, *10 (D.D.C. Aug. 21, 2023) ("She claims that DoD [] provided an unmeaningful and 'boilerplate' explanation as to the denial of her claim.... Though DoD's explanation of its denial of Lt. Petitfrere's claim was brief, such brevity does not necessarily indicate a lack of meaningfulness."); *see also Seila Law LLC v. CFPB*, 591 U.S. 197 (2020) (analyzing the use of boilerplate language in the context of the Dodd-Frank statute, noting, "boilerplate is boilerplate for a reason—because it offers tried-and-true language to ensure a precise and predictable result").

This is doubly true when it comes to decisions shielded from judicial review by statute. *Morales de Soto v. Lynch*, 824 F.3d 822, 828 (9th Cir. 2016); *Ferreira v. Mayorkas*, 767 F. Supp. 3d 929, 940 (N.D. Cal. 2025) (rejecting argument that "boilerplate decisions" violated APA or due process in discretionary adjustment of status determinations); *Monroy v. DHS*, 396 F. Supp. 3d 1206, 1209 (S.D. Fla. 2019) (rejecting argument that courts may circumvent clear jurisdictional bars based on argument "the agencies' issuance of boilerplate denial letters lacks

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

any indication that these factors were properly considered"). Use of 'boilerplate' language is a widespread practice among government agencies as well as courts when applying uniform standards of review to different sets of facts. Such an approach can help to ensure consistency and fairness. *See Parzenn Partners, LLC v. Baran*, No. 19-cv-11515-ADB, 2020 U.S. Dist. LEXIS 178633, *11 (D. Mass. Sep. 29, 2020). And indeed, boilerplate and brief notices containing only a statutory citation are the norm in the visa context. *See, e.g., Dep't of State v. Muñoz*, 602 U.S. 899, 917 (2024); *Kerry v. Din*, 576 U.S. 86, 105 (2015).

Here, Petitioner received statutory citations, 8 CFR § 212.5(e) and 8 U.S.C. § 1182(a)(7)(A)(i)(I), explaining that she was being placed into removal proceedings and that her parole was therefore revoked, and that is sufficient.

And even if it were not normally sufficient in other contexts, a decision concerning § 1182(d)(5)(A) parole is a decision which falls within the purview of the "nonreviewability" doctrine. "For more than a century," the Supreme Court "has recognized that the admission and exclusion of foreign nationals is a 'fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control.'" *Trump v. Hawaii*, 585 U.S. at 702 (quoting *Fiallo v. Bell*, 430 U. S. 787, 792 (1977)). "Congress may delegate to executive officials the discretionary authority to admit noncitizens 'immune from judicial inquiry or interference.'" *Muñoz*, 602 U.S. at 907 (quoting *Harisiades v. Shaughnessy*, 342 U. S. 580, 588-591 (1952)). "When it does so, the action of an executive officer 'to admit or to exclude an alien' 'is final and conclusive.'" *Id.* (quoting *Knauff*, 338 U.S. at 543). "The Judicial Branch has no role to play 'unless expressly authorized by law.'" *Id.* (quoting *Knauff*, 338 U. S., at 543).

A decision concerning the termination of parole is not reviewable under this doctrine. *See Mason v. Brooks*, 862 F.2d 190, 193–94 (9th Cir. 1988) ("[A] rejection of parole will be upheld if the agency advanced a facially legitimate and bona fide reason for the denial."); *Amanullah v. Nelson*, 811 F.2d 1, 9–10 (1st Cir. 1987) ("[I]nasmuch as the decisions which we are called upon to consider were discretionary parole decisions made incident to exclusion proceedings, the applicable standard of review... is that limned by *Kleindienst v. Mandel*[.]"); *see Trump v.*

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

Hawaii, 585 U.S. at 703 (applying doctrine to presidential § 1182(f) proclamations); *Kleindienst v. Mandel*, 408 U.S. 753, 757 (1972) (applying doctrine to Attorney General's denial of inadmissibility waiver); *Chiang v. Skeirik*, 582 F.3d 238, 243 (1st Cir. 2009) (application to USCIS's visa petition refusal); *Doan v. INS*, 160 F.3d 508, 509 (8th Cir. 1998) (applying doctrine to INS's denial of inadmissibility waiver); *see also Bustamante v. Mukasey*, 531 F.3d 1059, 1062 n.1 (9th Cir. 2008) ("The Supreme Court said nothing to suggest that [*Mandel*'s] reasoning or outcome would vary according to which executive officer is exercising the Congressionally-delegated power to exclude."), *abrogated in part on other grounds by Muñoz*, 602 U.S. 899. Further, the APA does not apply to decisions covered by the nonreviewability doctrine. *Baaghil v. Miller*, 1 F.4th 427, 434 (6th Cir. 2021); *Saavedra Bruno v. Albright*, 197 F.3d 1153, 1160 (D.C. Cir. 1999). Absent an express authorization in the INA, "the federal courts cannot review those decisions." *Muñoz*, 602 U.S. at 908.[9] Thus, this Court should not review the decision to revoke Petitioner's parole.

H. Counts I and II Fail on the Merits Because Petitioner Pleads Facts Indicating She Is Ineligible for Further Parole.

Accepting her allegations as true, Petitioner pleads facts indicating that she is *prima facie* ineligible for parole under § 1182(d)(5)(B). *See* Pet. ¶ 18. Under § 1182(d)(5)(A), the Secretary "may" "in [her] discretion parole" "except as provided in subparagraph (B)[.]" Subparagraph (B) provides, "[t]he Secretary of Homeland Security may not parole into the United States an alien who is a refugee unless the Secretary of Homeland Security determines that compelling reasons in the public interest with respect to that particular alien[.]" 8 U.S.C. § 1182(d)(5)(B). The term "refugee" is defined by statute. 8 U.S.C. § 1101(a)(42). In her removal proceedings, Petitioner argues that she meets that statutory definition. *See* Decl., Ex. 4. As she argues that she meets the definition of a "refugee" within the meaning of § 1101(a)(42) and she does not allege any facts showing "compelling reasons in the public interest with respect to" her specifically that would

[9] Because Petitioner is not a U.S. citizen, the narrow exception to this bar does not apply. *See Muñoz*, 602 U.S. at 908 ("a narrow exception to this bar exists 'when the denial... allegedly burdens the constitutional rights of a U. S. citizen.'") (citing *Trump v. Hawaii*, 585 U.S. at 703).

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

merit an exception to § 1182(d)(5)(B), her pleadings (accepted as true) are self-defeating of her claim for § 1182(d)(5)(A) parole.

I. Count I Fails As There Is No Due Process Interest in Discretionary Benefits.

Count I fails because temporary, discretionary parole under § 1182(d)(5)(A) does not create constitutionally-protected interests. The Ninth Circuit, in binding authority, has found the exact claim brought by Petitioner is not colorable and it is therefore foreclosed here. In *Kwai Fun Wong v. United States INS*, the Ninth Circuit squarely held, "[t]he INA does not create any liberty interest in temporary parole that is protected by the Fifth Amendment. Rather, the statute makes clear that whether and for how long temporary parole is granted are matters entirely within the discretion of the Attorney General." 373 F.3d 952, 968 (9th Cir. 2004). Petitioner's "due process claim must therefore be dismissed." *Id.* The Court must follow this holding.[10]

To the extent that Plaintiff claims an independent "reliance interest" in her prior parole, such argument fails. Per its definition, parole is a discretionary and may only be granted on a case-by-case basis. 8 U.S.C. § 1182(d)(5)(A). And courts in this circuit have said that "a liberal award of parole in the past... does not create a 'serious reliance interest' in being approved for parole[.]" *S.A. v. Trump*, 363 F. Supp. 3d 1048, 1086 (N.D. Cal. 2018); *see also Gerhart v. Lake Cnty., Mont.*, 637 F.3d 1013, 1021 (9th Cir. 2011) ("a government body's past practice of granting a government benefit is insufficient to establish a legal entitlement to the benefit."). Parole is and always has been too discretionary to create the reliance interest. *Cf. S.A. v. Trump*, 363 F. Supp. 3d at 1085 ("[A]n application for parole that has not been approved does not engender a reliance interest").

[10] This holding is also not novel. *Lorenzo v. Taylor*, No. 17-11640 (CCC), 2018 U.S. Dist. LEXIS 32803, at *3 (D.N.J. Feb. 28, 2018) (collecting cases) ("...neither the language of § 1182(d)(5) nor any case law supports the proposition that § 1182(d)(5) creates a liberty interest to parole for immigration detainees.").

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

II. Petitioner's Habeas Petition Fails and Should Be Denied (Count III)

A. Petitioner's Detention Complies with Statute

Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii). Petitioner entered the United States as an arriving alien who was granted temporary authorization to remain in the United States under 8 U.S.C. § 1182(d)(5)(A). Petitioner was served with an NTA that informed her that her parole was revoked pursuant to 8 C.F.R. 212.5(e). Pet. ¶ 19, Ex. 2. Petitioner's NTA also informed her that she was subject to removal under INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I). Pet., Ex. 2. Upon the revocation of her parole, Petitioner's status returned to that of an arriving alien. *See* 8 C.F.R. § 215(e)(2). Before being detained, Petitioner filed an application for asylum. Pet. ¶ 18. Section 1225(b)(1)(B)(ii) specifically contemplates that an alien "shall be detained for further consideration of the application for asylum." Section 1225(b) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Jennings*, 583 U.S. at 302. Because Petitioner's application for asylum remains pending, Petitioner is subject to mandatory detention.

Notably, Petitioner does not allege that there is no statutory authority for her detention, she merely concludes her detention violates the Fifth Amendment. The Fifth Amendment protects against deprivations of life, liberty, or property without due process, but it does not create an entitlement to procedure for the sake of procedure. *Olim v. Wakinekona*, 461 U.S. 238, 250 (1983) ("Process is not an end in itself."). Petitioner was paroled from Afghanistan and, as an inadmissible arriving alien, she has no inherent rights under the U.S. Constitution and is protected only by the rights conferred by statute. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned"). The Supreme Court reaffirmed this in *Thuraissigiam*, where it held that "an alien at the threshold of initial entry" has no procedural due process rights "other than those afforded by statute." 591 U.S. at 107. "[Sections] 1225(b)(1) and (b)(2) ... provide for detention for a specified period of time," namely "throughout the completion of applicable

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

proceedings." *Jennings*, 583 U.S. at 299, 302; *id.* at 300 ("neither provision can reasonably be read to limit detention to six months.").

The Ninth Circuit has applied this principal to arriving aliens placed into removal proceedings under 8 U.S.C. § 1225(b). *See Mendoza-Linares v. Garland*, 51 F.4th 1146, 1167 (9th Cir. 2022) ("any rights [a petitioner] may have in regard to removal or admission are purely statutory in nature and are not derived from, or protected by, the Constitution's Due Process Clause."); *see id.* at 1164 (quoting *Thuraissigiam*, 591 U.S. at 139) (noting "an arriving alien 'has no constitutional rights regarding his application,' [and] '[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned'"); *Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 U.S. Dist. LEXIS 103006, at *5 (S.D. Cal. June 10, 2024); *Zelaya-Gonzalez v. Matuszewski*, No. 23-cv-151 JLS (KSC), 2023 U.S. Dist. LEXIS 72761, at *9–10 (S.D. Cal. Apr. 25, 2024); *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003) ("The recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'")); *Guerrier v. Garland*, 18 F.4th 304, 310 (9th Cir. 2021) ("[I]n the expedited removal context, a petitioner's due process rights are coextensive with the statutory rights Congress provides."); *Rauda v. Jennings*, 8 F.4th 1050, 1058 (9th Cir. 2021) ("Congress has already balanced the amount of due process available to petitioners with the executive's prerogative to remove individuals, and we decline to expand judicial review beyond the parameters set by Congress.").

Other Circuits agree, often citing *Thuraissigiam* as support for their holdings that arriving aliens detained under § 1225(b)(1) do not have a due process beyond what is afforded by statute *See United States v. Guzman*, 998 F.3d 562, 569 (4th Cir. 2021); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 300 (3d Cir. 2020); *Martinez v. LaRose*, 980 F.3d 551, 552 (6th Cir. 2020) (Thapar, J., concurring). Petitioner's sole protections are those afforded by Congress via statute.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

Here, the government complied with all statutory protections. Petitioner received the written NTA, which informed her that her "parole ha[d] been affirmatively cancelled under 8 C.F.R. § 212.5(e)." *See* Pet. ¶ 19, Ex. 2. The service of the NTA on Petitioner "constitute[d] written notice of termination of parole," sufficient terminate Petitioner's parole. 8 C.F.R. § 212.5(e)(2)(i). *See L.M.*, 2026 U.S. Dist. LEXIS 6869, at *9–10 ("The requirement of written notice is the only safeguard, for both the alien and the United States government, that parole status is administered in an orderly manner.") (quoting *Lagarda-Aguilar*, 617 F.2d at 527).

Petitioner does not satisfy her burden of showing that her detention is unlawful, as she depends solely on conclusory, unsupported allegations that she does not pose a security or flight risk because she was granted parole from Afghanistan. Notwithstanding that Petitioner's conclusory allegations and legal conclusions are not entitled to a presumption of truth, Petitioner's allegations are wrong. Petitioner was granted parole under 8 C.F.R. § 212.5(c) by CBP and then re-paroled under the same regulation by USCIS, not 8 C.F.R. § 212.5(b) (applicable to aliens paroled from custody). No finding concerning her safety/flight risk was necessitated by her initial grant of parole by CBP upon arrival from abroad. Neither was there any flight risk/safety assessment during USCIS's more recent re-parole decision, nor does she contend as much.[11] In any event, Petitioner does not allege any facts showing that her flight risk or public safety threat was "actually litigated" in advance of either of those decisions such that DHS cannot contest it now. *See Janjua v. Neufeld*, 933 F.3d 1061, 1066 (9th Cir. 2019). And while Petitioner appears to cite a bevy of caselaw supporting her conclusory and incorrect allegations, these cases concern grants of parole to individuals from custody (or individuals whom those courts construed as being paroled from custody), not from abroad or from outside of custody, and are inapplicable here.

[11] To be eligible for re-parole under USCIS's Re-Parole Process for Certain Afghans Nationals, the only stated qualifications were: (1) being an Afghan national, and (2) being previously granted OAR/OAW parole or having the status of previously being granted OAR/OAW parole. *Re-Parole Process for Certain Afghans Nationals*, U.S. Citizenship & Immigration Servs. (updated April 23, 2025) (https://www.uscis.gov/humanitarian/information-for-afghan-nationals/re-parole-process-for-certain-afghans-nationals).

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

B. Petitioner's Detention Comports with Due Process

Even if Petitioner did have a protected liberty interest under the Constitution, her detention is still consistent with due process under the factors considered in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019). Under *Banda*—a non-binding, albeit popular standard amongst district courts in this circuit—courts consider six factors: "(1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal." *Id.*[12] Although Petitioner bears the burden of proof to establish a due process violation, the Petition does not allege anything more than unsupported legal conclusions, which are insufficient to satisfy her burden. The evidence shows that no due process violation has occurred as Petitioner's detention has been reasonable.

First and most importantly, the length of Petitioner's detention has not been unreasonable. *See Odimara v. Bostock*, No. 2:24-cv-572-JHC-GJL, 2024 U.S. Dist. LEXIS 149107, *13 (W.D. Wash. July 12, 2024) ("The current length of Petitioner's detention is the first and most important factor of the analysis."). At only seven months, the length of detention factor favors of the Government. *Duvine v. Hermosillo*, No. C25-2583-SKV, 2026 U.S. Dist. LEXIS 13720, *8 (W.D. Wash. Jan. 9, 2026) ("Petitioner has been detained by ICE for over seven months. . . This period of detention has not yet reached the length of what this Court typically finds unreasonable.").[13]

---

[12] To be clear, the Government does not agree that *Banda* was correctly decided or that its test is appropriate. *Banda* borrowed from and relied heavily on *Zadvydas*, a case which dealt with potentially indefinite post-order detention under § 1231 and which involved aliens who had lived in the United States lawfully for decades. By *Zadvydas*'s own terms, the *Zadvydas* holding expressly did not extend to aliens who are "'treated,' for constitutional purposes, 'as if stopped at the border.'" *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (noting this distinction "made all the difference."). Incorrectly, *Banda* did away with this distinction, and extended *Zadvydas* to those who simply do not stand on the same constitutional footing. For non-citizens treated as if stopped at the border, the rule in *Mezei* continues to govern. *See Shaughnessy*, 345 U.S. at 215. Despite disagreement with *Banda*, Respondents address the test given the likelihood that it will be employed in this case.

[13] While Petitioner's detention began barely more than six months ago on July 25, 2025, Petitioner's two Bond Redetermination Requests on July 31 and October 22, 2025 were heard expeditiously within a week of filing, though she later withdrew those requests after the hearing.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

Second, "the anticipated duration of all removal proceedings including administrative and judicial appeals" at this point is unknown and speculative, making this factor, at worst, neutral. *See Ashemuke v. ICE Field Off. Dir.*, No. C23-1592-RSL-MLP, 2024 U.S. Dist. LEXIS 73224, at *12 (W.D. Wash. Feb. 29, 2024) (explaining that the future length of detention "remains unknown at this point in time. Given the ongoing uncertainty, this Court concludes that the second factor is neutral."). In addition, here, Petitioner has already conceded removability, but she was granted asylum by the IJ. The appeal of her asylum application is pending, and if she is successful in that appeal, then her § 1225(b) detention will be at an end. Moreover, her removal proceedings are moving along expeditiously (*see* Decl. ¶¶ 6-21) and her requests for bond hearings have been honored quickly (Decl. ¶¶ 8-9, 13-14), making any claim that detention will be indefinitely prolonged extremely implausible. Thus, this factor favors the Government, or is at worst neutral.

The third factor is, at most, neutral. The conditions of Petitioner's detention have not been unreasonable, and Petitioner has offered nothing more than conclusory allegations concerning such conditions, without any record evidence. *Cf. Duvine*, 2026 U.S. Dist. LEXIS 13720, at *11 (petitioner provided evidence concerning the conditions of his confinement). Since being detained, Petitioner has been provided with the opportunity to receive medical care, although she has chosen to refuse much of it. *See* Declaration of Eddie Wang, M.D., attached as Exhibit B. The same declaration notes ICE's commitment to "timely access to necessary and appropriate medical, dental, and mental health care and treatment while in custody" and explains the "health, safety, and welfare of those detained in its custody are among agency's highest priorities, and IHSC has protocols in place to ensure that any patient medical issues within its detention facilities is promptly and appropriately addressed and treated." *Id.* Moreover, the NWIPC was "accredited by the National Commission on Correctional Health Care in January 2021 and the American

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

Correctional Association in April 2021."[14] Given Petitioner has submitted no evidence concerning her detention,[15] this factor favors the Government, or at worst, is neutral. *See Odimara*, 2024 U.S. Dist. LEXIS 149107, at *17 ("The current record is devoid of any evidence regarding the conditions of Petitioner's detention at NWIPC. Thus, this factor weighs neither for nor against a bond hearing.").

Concerning the fourth and fifth factors, these factors are in equipoise. Both Petitioner and DHS have requested one continuance of approximately four weeks each. Decl. ¶¶ 11–12, 16–17. As such, these factors are in equipoise and are thus neutral. *See Odimara*, 2024 U.S. Dist. LEXIS 149107, at *18 ("there is no allegation or evidence of any undue delays in Petitioner's ongoing removal proceedings. As such [these factors] weigh neutrally . . .").

The final factor (i.e., the likelihood that proceedings will result in a final order of removal) is, at most, neutral. Petitioner has already conceded removability, although the appeal of her asylum application remains pending. Thus, any conjecture that her removal proceedings will not result in a final removal order is, at this point, speculative at best. *See Duvine*, 2026 U.S. Dist. LEXIS 13720, at *16 ("the Court lacks sufficient information to make a prediction as to the likelihood removal proceedings will result in a final order of removal and a ruling would therefore be no more than speculative. The Court thus finds the sixth and final factor neutral.").

In sum, the first and most important factor favors the government, while the remaining factors tilt in favor of the government or are neutral. Thus, the continued detention of Petitioner will serve to assure her presence at the time of her reasonably foreseeable removal, and continues to "serve its purported immigration purpose." *See Demore*, 538 U.S. at 527–28; *Prieto-Romero*, 534 F.3d at 1063.

---

[14] Office of Professional Responsibility, *Tacoma ICE Processing Center (Northwest Detention CTR) Compliance Inspection* (January 2025), U.S. Immigration & Customs Enforcement (https://www.ice.gov/doclib/foia/odo-compliance-inspections/tacomaIPC_TacomaWA_Jan28-30_2025.pdf).

[15] Excepting arguments by counsel made in support of the since stricken motion for a temporary restraining order, but "[c]ounsel's argument is neither law nor evidence[.]" *United States v. Bernard*, 625 F.2d 854, 857 (9th Cir. 1980); *see also United States v. Edwards*, 154 F.3d 915, 921 (9th Cir. 1998) (" . . . attorneys are generally prohibited from taking the witness stand to testify in a case they are litigating."). Ms. Smith's argument that "the conditions in detention are abysmal" is not evidence, and it would be improper advocate-witness testimony even if it were.

U.S. DEPARTMENT OF JUSTICE
Ben Franklin Stat., PO Box 868
Washington, D.C. 20001
(202) 451-7304

CONCLUSION

WHEREFORE Respondents respectfully request the Court dismiss the civil claims and deny the Petition.

DATED this 17th day of February, 2026.

Respectfully Submitted,

BRETT A. SHUMATE
Assistant Attorney General

DREW C. ENSIGN
Deputy Assistant Attorney General

DAVID J. BYERLEY
RUTH ANN MUELLER
Senior Litigation Counsel
U.S. Department of Justice
Civil Division
Office of Immigration Litigation

JEFFREY ALDERETTE
Trial Attorney

/s/ Jackson M. Story
JACKSON M. STORY
Florida Bar #1032001
Trial Attorney
U.S. Department of Justice
Civil Division
Office of Immigration Litigation
P.O. Box 868, Washington, DC 20044
Telephone: (202) 451-7304
jackson.m.story@usdoj.gov

Attorneys for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document should automatically be served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Jackson M. Story
Jackson M. Story
Florida Bar #1032001
Trial Attorney
U.S. Department of Justice

DETAINED

Magistrate Judge Michelle L. Peterson

Hilary Smith
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104-1003
(206) 929-3880
hilary.smith@ghp-law.net

Attorney for Petitioner

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RONIA MOHAMMADI, Petitioner, v. PAMELA BONDI, *et al.;* Respondents.	CASE NO.: 2:26-cv-420-MLP **PETITIONER'S TRAVERSE** Noted for Consideration: February 20, 2026

ARGUMENT

I. The Court should strike Federal Respondent's Return and Motion to Dismiss.

Respondents failed to comply with the Local Civil Rules (LCR). First, Respondents do not include a certification in the signature block as to the number of words included in the return and motion. *See* Dkt. 15, at 25. LCR(e)(6) states: "When word limits apply, the signature block *shall* include the certification of the signer as to the number of words, substantially as follows: 'I certify that this memorandum contains _____ words, in compliance with the Local Civil Rules.'" (emphasis added).

Second, motions to dismiss under LCR 7(d)(4) "shall not exceed 8,400 words." LCR 7(e)(4). Because Respondent's did not include a certification as to the word count, it was unclear what the total word count was. Petitioner's counsel converted the document into Word format and using the word-processing system of that application, determined the total word count to be approximately 9,893 words. Respondents did not file a motion to file an over-length motion and did not confer with Petitioner's counsel prior to filing its motion. Petitioner understands that all parties agreed to an expedited briefing schedule, which was granted by this Court on February 9, 2026. Dkt. 7. However, that timing still afforded Respondents ample time to file a motion to exceed the word count three days before February 17, 2026. *See* LCR 7(f)(1).

Petitioner further understands that this Court "may refuse to consider any text, including footnotes, which is not included within the word or page limits." LCR 7(e)(6). Petitioner will defer to the Court's discretion on whether to strike the return and motion in its entirety or portions of it that exceed the word limit.

II. This Court has jurisdiction.

Petitioner is not asking this Court to review the legality of the revocation of her parole. Rather, she is challenging her current detention on the basis that she was not afforded due process when she was detained, explained further below. The granting of humanitarian parole afforded Petitioner with a protected liberty interest, and she was entitled to procedural safeguards prior to being detained. *See Chavarria v. Chestnut*, No. 1:25-CV-01755-DAD-AC, 2025 U.S. Dist. LEXIS 255174, at *8 (E.D. Cal. Dec. 9, 2025) ("Many district courts in the Ninth Circuit have found that non-citizens paroled into the United States pursuant to § 1182(d)(5) have a liberty interest in their continued release, entitling them to certain due process protections, the extent of which are

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

determined by applying the test provided in *Mathews*...."). Therefore, this Court has jurisdiction, as challenges to immigration-related detention are within the purview of the Court's habeas jurisdiction. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)

Further, Petitioner is utilizing the Administrative Procedure Act (APA) claim to challenge the lawfulness of her detention and not as a means of seeking judicial review. The "underlying arguments do not subsume the core of the habeas petition, simply upon mention of the APA." *Noori v. Larose*, No. 2:25-cv-1824-GPC-MSB, 2025 U.S. Dist. LEXIS 194953, at *15 (S.D. Cal. Oct. 1, 2025). And even if the APA claims are barred before this Court, the constitutional due process issues alleged in Petitioner's first and third claims of relief are not. *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 901 (D. Minn. 2020) ("Although the court may not review discretionary decisions made by immigration authorities, it may review immigration-related detentions to determine if they comport with the demands of the Constitution.").

III. Petitioner's claim is not moot, and she presents viable due process claims.

An action is moot when a litigant no longer has "a personal stake in the outcome of the suit throughout 'all states of federal judicial proceedings." *Abdala v. I.N.S.*, 488 F.3d 1061, 1063 (9th Cir. 2007) (quoting *United States v. Verdin*, 243 F.3d 1174, 1177 (9th Cir. 2001). Respondents argue that because Petitioner's parole is now expired, she does not present a live controversy. Dkt. 15, at 9.

Petitioner is still detained. Contrary to Respondents assertion, Petitioner did allege how she is "in a better position if her parole were to be deemed ended as of August 31, 2025 versus July 25, 2025." Dkt. 15, at 9. The relevant facts are those that existed at the time of re-detention, as

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

Petitioner stated in her first claim for relief. Dkt. 1, ¶ 34; *see Calderon v. Noem*, No. 2:25-cv-2136-LK-TLF, 2025 U.S. Dist. LEXIS 266732, at *8-9 (W.D. Wash. Dec. 29, 2025).

When Petitioner was detained, she previously had valid humanitarian parole which was not yet expired.[1] That is not in dispute. Individuals paroled into the United States under humanitarian parole or similar programs develop a liberty interest in their continued freedom from detention and are entitled to certain due process protections. *See e.g. Omer G. G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB (HC), 2025 U.S. Dist. LEXIS 230551. at *19 (E.D. Cal. Nov. 22, 2025) (determining that the petitioner was entitled to a post-deprivation bond hearing after he was initially released pursuant to § 1182(d)(5)(A) and later re-detained); *Salazar v. Casey*, No. 25-cv-02784-JLS-VET, 2025 U.S. Dist. LEXIS 216353, at *14 (S.D. Cal. Nov. 3, 2025) (ordering the petitioner released from custody subject to the conditions of her preexisting parole under § 1182(d)(5)(A), and requiring notice and a hearing prior to her re-detention); *Noori*, 2025 U.S. Dist. LEXIS 194953, at *37-38 (enjoining re-detention of the petitioner during the pendency of his removal proceedings without leave of the court, when the petitioner was previously released on humanitarian parole); *Rodriguez Cabrera v. Mattos*, No. 2:25-cv-01551-RFB-EJY, 2025 U.S. Dist. LEXIS 216258, at *42 (D. Nev. Nov. 3, 2025) (ordering the petitioner's immediate release following re-detention when he was initially released pursuant to § 1182(d)(5)(A)).

Further, Courts have consistently found that when a noncitizen is released into the United States from custody on parole, detention cannot occur absent a pre-deprivation hearing to ensure that the government does not erroneously revoke or cancel the parole. *See, e.g., Zavorin v.*

[1] It is unclear whether Petitioner's parole was affirmatively cancelled before or after her detention. Remarkably, the Form I-213 does not make any mention of her humanitarian parole. *See* Dkt. 15-1, at 13-15.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

Wamsley, No. 2:26-cv-00173-DGE, 2026 U.S. Dist. LEXIS 24490, at *10-11 (W.D. Wash. Feb. 5, 2026) (finding that an appropriate official must first determine whether the purposes of parole have been served or subsequent changes justified re-detention before revoking or cancelling a noncitizens parole); *Safi v. Noem*, 2026 U.S. Dis. LEXIS 32091, at *9 (W.D. Wash. Feb. 17, 2026) (find that "the Constitution requires some kind of hearing *before* the State deprives a person of liberty or property). Petitioner may not have been detained or in custody in the traditional sense upon her arrival to the United States, but the "bevy of caselaw" cited in the petition is still applicable to her circumstances. *See* Dkt. 15, at 21. The decision to grant her humanitarian parole under 8 U.S.C. § 118(d)(5) necessarily required a determination that she posed neither "a security risk nor a risk of absconding." *Chavarria*, 2025 U.S. Dist. LEXIS 255174, at *7-8 (citing 8 C.F.R. § 212.5(b)). Further, when an Afghan national was paroled under "Operation Allies Welcome," they were subject to extensive security screening and vetting "to ensure that those seeking entry do not pose a national security or public safety risk" and to conform with the operation's "dual goals of protecting national security and providing protection for our Afghan allies." *Operation Allies Welcome*, DEP'T OF HOMELAND SEC., https://www.dhs.gov/archive/operation-allies-welcome (last updated Jan. 22, 2025).[2] And "[e]ven when the revocation of a person's freedom is authorized by statute, that person may retain a protected liberty interest under the Due Process Clause." *Rico-Tapia v. Smith*, No. CV 25-00379 SASP-KJM, 2025 U.S. Dist. LEXIS 206547, at *23 (D. Haw. Oct. 10, 2025).

[2] Respondents' assertion that "[n]o finding concerning safety/flight risk was necessitated by her initial grant of parole by CBP upon arrival from abroad" is not only unsupported in their reply, it is incorrect and misleading, as material from their own agency wholly contradicts that claim, cited above. *See* Dkt. 15, at 21.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

Under *Mathews*, Petitioner has a significant private interest in her continued release from custody. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). She lived in the United States for nearly four years and sought relief. Her private interest continued to develop over those years. *See Noori*, 2025 U.S. Dist. LEXIS 194953, at *27-28. Next, the risk of erroneous deprivation of her liberty is high. *See Mathews*, 424 U.S. at 335. While Petitioner received "written notice" in the form of a Notice to Appear, there was no individual determination made whether she posed a danger or a flight risk.[3] While no explanation of termination of parole is required by statute, due process requires it, as courts have found the revocation of parole to lack meaningful review, particularly where that revocation results in immediate detention as a mandatory detainee. *See Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d. 1163, 1174 (1174) ("The parole process does not afford the noncitizen an in-person adversarial hearing before a neutral decisionmaker where he or she may present witness testimony or evidence."). Additional procedural safeguards would ensure that any detention is either necessary or lawful. *Chavarria*, 2025 U.S. Dist. LEXIS 255174, at *11. Last, Respondent's interest in detaining Petitioner without notice, reasoning, and a hearing is low. *See Mathews*, 424 U.S. at 335. Respondents did not assert any burden that would be placed on the government if Petitioner would have been provided with a written notice of the reasons of her parole cancellation or a hearing before a neutral adjudicator prior to her detention.

[3] Respondents' contentions that Petitioner would be an "at large" terrorist are completely unfounded and insulting. First, there have been no formal charges lodged against Petitioner supporting these allegations. Second, the only "evidence" ever submitted by Respondents is an undated, unauthored document that an Immigration Judge found to give no more than minimal weight. Dkt. 15-1, at 27, 41, in a court where the Federal Rules of Evidence do not even apply. When evaluating the evidence, the Immigration Judge found that it was not sufficient to bar Petitioner from a grant of asylum. If the government had presented even partially credible evidence of her involvement with terrorism, she would have been permanently barred from receiving asylum. Lastly, this "evidence" was not produced until October 29, 2025, over three months after Petitioner was detained, so it cannot be used to justify her detention in July 2025.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

Based on the foregoing, due process required that Respondents provided, at minimum, some reasoning explaining why Petitioner's parole was cancelled and why she was being detained. Her due process rights were clearly violated, and such violation warrants her immediate release.

IV. Respondents misinterpret *Thuraissigiam*, and its holding does not apply.

Petitioner can no longer be classified as an "arriving alien" and *Thuraissigiam* does not apply. *Thuraissigiam* is wholly distinguishable from Petitioner's case. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020). "[T]he Supreme Court has never applied the entry fiction doctrine" to a case like Petitioner's, "to constitutionally justify the detention of person living freely, for years, within the Untied States [] and its expansion here cannot be justified." *Rincon v. Hyde*, No. 25-12633-BEM, 2025 U.S. Dist. LEXIS 220058, at *3 (D. Mass. Nov. 7, 2025); *see also Padilla v. ICE*, 704 F. Supp. 3d 1163, 1170-72 (W.D. Wash. 2023) (addressing the distinction between a challenge to admission and a challenge to detention and holding that *Thuraissigiam* does not foreclose a challenge to detention); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 147, 151 (W.D.N.Y. 2025) ("While *Thuraissigiam* forecloses the argument that [petitioner] has due process rights beyond those provided by statute concerning the process for deciding whether or not he will be *admitted* to this country, it does not foreclose his arguments regarding parole revocation and release.").

Here, where Petitioner has lived with freedom in the United States for years, "the constitution does not countenance fictional erasure of [her] actual presence in this country—or [her] concomitant due process rights." *Mahib Dieng v. Hermosillo*, No. 2:26-cv-00190-LK, 2026 U.S. Dist. LEXIS 30492, at *11 (W.D. Wash. Feb. 13, 2026). Therefore, Petitioner should have

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

been afforded with the due process protections outlined above and *Thuraissigiam* does not preclude those claims.

V. In the alternative to immediate release, due process requires that Petitioner be afforded a bond hearing.

Even if this Court is not inclined to order Petitioner's immediate release, her detention has now become unreasonably prolonged and is inconsistent with due process under *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019). Under *Banda*, courts analyze: (1) the length of detention; (2) how long detention is likely to continue absent judicial intervention; (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the petitioner; (5) the nature and extent of any delays caused by the government; and (6) the likelihood that the final proceedings will culminate in a final order of removal. *See id.* at 1117.

First, the length of Petitioner's detention is now unreasonable, which is the most important factor. *Banda*, 285 F. Supp. 3d at 1118. By the time this petition is decided, Petitioner's detention will be near, at, or over seven months. This Court has recently held that detention of around seven months was hard to justify. *See Duvine v. Hermosillo*, 2026 U.S. Dist. LEXIS 13720, at *8-9 (W.D.Wash. Jan. 9, 2026) ("[Petitioner's detention], however, has exceeded six months and is approaching a period of detention the Court would find hard to justify.").[4] This factor weighs in favor of Petitioner, especially considering she has never been afforded a bond hearing. as her requests were withdrawn because the Immigration Judge indicated she was subject to mandatory

[4] Surprisingly, Respondents cite this case to support their assertion that this first factor favors the Government, Dkt. 15, at 22, when in fact, this Court came to the conclusion it was either neutral or weighed slightly in Petitioner's favor.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

detention based on being charged as an "arriving alien." *See* Dkt. 15-1, at 17-20. Therefore, the most important factor, weighs in favor of Petitioner.

Second, Petitioner's length of detention is not speculative. Respondents fail to acknowledge the evidence submitted by Petitioner. Dkt. 1-2, at 18. A detained appeal takes, on average, 190 days. *Id.* Petitioner likely will be detained for, at least, another six months. And her length of detention is being extended due to DHS' decision to appeal, not her own. There is no reason why she must remain in detention while DHS pursues its appeal rights as they retain that privilege even if she is released. Additionally, depending on the outcome of the appeal, either party could petition for review with the Ninth Circuit, which could take months or even years. This factor weighs strongly Petitioner's favor. *See Mamo v. Bondi*, No. 2:25-cv-2562-SKV, Dkt. 13, at *9 (W.D. Wash. Jan. 20, 2026) ("Given that DHS has chosen to appeal the IJ decision, and given that the appeal process is likely to take a number of additional months, if not more, this factor weighs in Petitioner's favor.")

Third, conditions of Petitioner's detention are considered. "The more that the conditions under which the [noncitizen] is being held resemble penal confinement, the stronger his argument that he is entitled to a bond hearing." *Banda*, 385 F. Supp. at 1119. Petitioner admits that she has not provided direct evidence of her treatment in detention, but evidence in support of this factor need not be restricted to the petitioner's firsthand account. *Calderon v. Bostock*, No. 2:24-cv-01619-MJP-GJL, 2025 U.S. Dist. LEXIS 52849, *11 (W.D. Wash. March 21, 2025). Since Petitioner has been detained, at least three times this Court found that the conditions at NWIPC are sufficiently penal. *See Scott v. Wamsley*, No. 2:25-cv-1829, 2025 U.S. Dist. LEXIS 253288, *25 (W.D. Wash. Dec. 8, 2025); *Belqasim v. Bostock*, No. 2:25-cv-01282-LK-TLF, 2025 U.S. Dist. LEXIS 224772, *24 (W.D. Wash. Oct. 18, 2025); *Maliwat v. Scott*, 2:25-cv-00788-TMC,

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

2025 U.S. Dist. LEXIS 152663, *15 (W.D. Wash. Aug. 7, 2025). This factor also weighs in favor of Petitioner.

Fourth, the only delay Petitioner caused was a continuance on November 5, 2025. Context is important here, which Respondents fail to provide. Petitioner asked for a continuance based on evidence DHS claimed would bar her from the relief she sought.[5] Her counsel at the time filed a motion to withdraw representation. Petitioner then hurried to obtain new counsel to represent her and asked for a continuance so her new counsel could review the case and respond to the serious and unfounded allegations raised by DHS. Petitioner's request for a continuance was justified and reasonable. This factor should either tilt in her favor or be neutral.

Fifth, the delays caused by Respondents were much less reasonable than the delays caused by Petitioner. Respondents requested a continuance on October 7, 2025, only three days before her scheduled individual hearing, and only asked for 30-days. Dkt. 15-1, ¶ 11-12. Then, DHS waited nearly three weeks to properly file the evidence and only one week before the next individual hearing. *Id.* ¶ 15-17. Had DHS filed the evidence promptly after requesting its continuance, Petitioner may not have needed to request her own. The fourth and fifth factors are not "equipoise" as Respondents allege. Dkt. 15, at 24. The fifth factor also weighs in favor of Petitioner.

Lastly, the final factor weighs in favor of Petitioner. "[W]here a noncitizen has asserted a good faith challenge to removal, 'the categorical nature of the detention will become increasingly unreasonable.'" *Banda*, 385 F. Supp. 3d at 1120. Petitioner prevailed in front of an Immigration

[5] Respondents allege that DHS filed this evidence on October 27, 2025. Dkt. 15-1, ¶ 14. However, that filing was rejected by the Immigration Court and was not re-uploaded until October 29, 2025. *See* Exh. B (indicting when the document was re-uploaded and accepted). Petitioner removed the last two pages of this document, as this sensitive information was already filed by Respondents. Dkt. 15-1, at 38-42.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

Judge. The Immigration Judge carefully analyzed DHS' evidence and found that it should be afforded "no more than minimal weight." Dkt. 15, at 27. Respondents appealed based on that unreliable evidence, offering no argument as to why the evidence should be considered reliable. *See* Exh. A, Notice of Appeal. DHS is challenging a factual determination made by the Immigration Judge, which is reviewed under the highly deferential standard of clear error. 8 C.F.R. § 1003.1(d)(3)(i). Therefore, this factor also weighs in favor of Petitioner. *Toktosunov v. Wamsley*, No. 2025 U.S. Dist. LEXIS 252150, at 13-14 (W.D. Wash. Dec. 5, 2025) ("[T]he fact remains that Petitioner has prevailed before an immigration judge on a prior occasion and, were the shoe on the other foot, the Court is fairly certain that Respondents would then argue that this factor weighs in favor of denying a hearing.").

In sum, nearly, if not all, factors weigh in favor of Petitioner. None weigh in favor of Respondents. On balance, the *Banda* factors favor Petitioner, her continued detention has become unreasonable, and due process requires that she be provided a bond hearing. This Court should order a bond hearing be provided, in which the government shall bear the burden of establishing by clear and convincing evidence that Petitioner is either a danger or a flight risk.

CONCLUSION

The Court should grant Petitioner's habeas petition and order her immediate release from custody. In the alternative, this Court should grant Petitioner's habeas petition and order the Immigration Court to provide a bond hearing within 7 days where Respondents shall prove by clear and convincing evidence that Petitioner is not a danger or a flight. If they fail to do so, Petitioner shall be ordered released from custody without bond or other restrictions. Petitioner does not believe that oral argument is necessary.

Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 929-3880

Dated: February 20, 2026.

/s/ Hilary Smith
HILARY SMITH, WSBA #60474
Attorney for Petitioner
Gibbs Houston Pauw
1000 Second Avenue, Suite 1600
Seattle, WA 98102
(206) 929-3880
hilary.smith@ghp-law.net

I certify that this memorandum contains 3,304 words in compliance with the Local Civil Rules.