IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSE VASQUEZ DE LA CRUZ	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 2:26-cv-00784
	:	
JAMAL L. JAMISON.,	:	
	:	
Respondents.	:	

RESPONSE IN OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS

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I. INTRODUCTION

Petitioner seeks a writ of habeas corpus, challenging the authority of the Secretary of the U.S. Department of Homeland Security (DHS) to detain him under the Immigration and Nationality Act (INA), 8 U.S.C. § 1225(b)(2). This petition is distinguishable from the numerous petitions recently considered by this Court in the wake of the Board of Immigration Appeals' (BIA) decision in *Matter of Hurtado*, 29 I & N Dec. 216 (BIA 2025), which, despite Petitioner's representations, is not implicated here.[1] *See e.g., Cantu-Cortes v. O'Neill, et al.*, No. 25-cv-6338, 2025 WL 3171639, at *1-2 (E.D. Pa. Nov. 13, 2025) (Kenney, J.); *Anirudh v. McShane, et al.*, No. 25-cv-6458 (E.D. Pa. Dec. 8, 2025) (Bartle, J.); *Juarez Velazquez v. O'Neill, et al.*, No. 25-cv-6191 (E.D. Pa. Dec. 3, 2025) (Henry, J.). The cases cited above and by Petitioner involved **aliens detained under 8 U.S.C. § 1225(b)(2)(A)** because they are removable and present in the United States without inspection and admission or parole.

However, Petitioner is subject to mandatory detention under **8 U.S.C. § 1225(b)(1) [not 1225(b)(2)(A)]** because he was initially processed for **expedited removal** when he attempted to enter the United States without authorization. That Petitioner is no longer in expedited removal under 8 U.S.C. § 1225 and is now in standard removal proceedings under 8 U.S.C. § 1229a does not change the statutory basis for detention. Petitioner is returned to his "detention status" when his parole ends.

[1] Similarly, the claims here would not implicate the recent class-certification and partial-summary-judgment rulings issued by the U.S. District Court for the Central District of California. *See Bautista v. Santacruz*, 2025 WL 3289861, *4 (C.D. Cal. Nov. 20, 2025) (addressing arguments that 8 U.S.C. § 1226, not § 1225, should apply to detention claims).

DHS processed Petitioner for expedited removal pursuant to 8 U.S.C. § 1225(b)(1) after he entered the United States without inspection in or around March 2023. *See* ECF 1, Exh. A; *see also* Exh. A – Form I-213, Record of Deportable/Inadmissible Alien. However, after the United States Citizenship and Immigration Services (USCIS) rendered a positive finding of credible fear, DHS paroled him from custody pursuant to 8 U.S.C. § 1182(d)(5) to facilitate the removal process under 8 U.S.C. § 1229a. *See* Exh. C – Interim Notice Authorizing Parole. This parole has since terminated, meaning Petitioner has now returned to his detention status at the time of his parole—*i.e.,* mandatory detention under § 1225(b)(1)—during the remainder of his removal proceedings under § 1229a.[2] Thus, Petitioner's detention comports with the INA, the bond regulations, and the Constitution, and the Court should accordingly deny the petition for a writ of habeas corpus.

I. DETENTION FRAMEWORK UNDER THE INA

The INA provides a statutory scheme for the civil detention of aliens pending a decision during removal proceedings, as well as once a final order of removal has been entered. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The time and circumstances of entry, as well as the stage of the removal process, determines where an alien falls within this scheme and whether detention of the alien is discretionary or mandatory.

[2] Four Courts in this jurisdiction have rejected this argument. *See Talabadze v. Rose, et al.,* No. 26-cv-360 (E.D. Pa Jan. 30, 2026) (Perez, J.); *Seminario-Marcos v. Jamison, et al.,* No. 26-cv-421 (E.D. Pa Feb. 6, 2026) (Kearney, J.); *Vazquez-Diaz v. Rose, et al,* No. 26-cv-342 (E.D. Pa Feb. 10, 2026) (Gallagher, J.); *Pkhaladze v. Rose, et al.,* 25-cv-509 (E.D. Pa Feb. 10, 2026) (Leeson, J.).

a. Applicants for Admission and Expedited Removal

An applicant for admission to the United States is defined 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 port of arrival. . . ." 8 U.S.C. § 1225(a)(1). As explained by the Supreme Court, "an alien who tries to enter the country illegally is treated as an 'applicant for admission,' and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry' into the United States." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Put differently, an "alien who arrives at a 'port of entry,' *i.e.* a place where the alien may lawfully enter, must apply for admission. An alien [] who is caught trying to enter at some other spot is treated the same way." *Id.* at 108. Such applicants for admission, "even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border.'" *Id.* at 139 (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). Pursuant to 8 U.S.C. § 1225, immigration officials have discretion to place aliens arriving in the United States in either expedited removal proceedings under Section 1225(b)(1) or full removal proceedings under 8 U.S.C. § 1229a. Under either approach, § 1225 authorizes detention of such individuals "throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018).

In 1996, Congress amended § 1225(b) to add "expedited removal" procedures for certain applicants for admission. Illegal Immigration Reform and Immigrant

Responsibility Act of 1996, Pub. L. No. 104208, Tit. III, § 302(a), 110 Stat. 3009-579 (1996); *see also Thuraissigiam*, 591 U.S. at 109–11 (describing the expedited removal process). Section 1225(b)(1) now provides that an applicant for admission is subject to expedited removal if the applicant is: (i) inadmissible because he or she lacks valid documents or is inadmissible due to fraud; (ii) has not "been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility"; or (iii) is among those whom the Secretary of DHS has designated for expedited removal. For these individuals, once an immigration officer determines that they are inadmissible, the officer must "order the alien removed from the United States without further hearing." 8 U.S.C. § 1225(b)(1)(A)(i); *Thuraissigiam*, 591 U.S. at 109.

b. Credible Fear Determinations

If, however, the alien expresses a fear of persecution or torture in their home country, an asylum officer must determine whether the alien has a credible fear. *See* 8 U.S.C. §§ 1225(b)(1)(A)(ii) & (B); 8 C.F.R. §§ 208.30, 235.3(b)(4). If an asylum officer makes a positive finding of credible fear, the individual is placed into removal proceedings to pursue asylum under 8 U.S.C. § 1229a. *Id.*

As explained by the Supreme Court, "[a]n alien subject to expedited removal thus has an opportunity at three levels to obtain an asylum hearing, and the applicant will obtain one unless the asylum officer, a supervisor, and an immigration judge all find that the applicant has not asserted a credible fear." *Thuraissigiam*, 591 U.S. at 110–11 ("As a practical matter, then, the great majority

of asylum seekers who fall within the category subject to expedited removal do not receive expedited removal and are instead afforded the same procedural rights as other aliens."). An individual subject to expedited removal under § 1225(b)(1), however, including an individual undergoing further review of their asylum claim, "is not entitled to immediate release" regardless of whether their asylum claim is reviewed fully or in an expedited manner. *Id.* at 111. *Jennings,* 583 U.S. at 302. Rather, § 1225(b)(1)(B)(iii)(IV) provides for mandatory detention of individuals during the credible fear review process and until removal from the United States. ("Any alien subject to the procedures under this clause *shall be detained* pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.") (emphasis added).

c. Parole for Applicants for Admission

While an applicant for admission is not entitled to release or a bond hearing by statute or regulation, the Secretary, acting through Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), has discretion to release applicants for admission from custody on humanitarian parole. *See* 8 U.S.C. § 1182(d)(5). Such a parole is done "temporarily under such conditions as [the Secretary] may prescribe [and] only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. §1182(d)(5)(A).

Parole is not an "admission" to the United States. 8 U.S.C. §§ 1101(a)(13)(B), 1182(d)(5)(A). As noted above, "aliens who arrive at ports of entry—*even those paroled elsewhere in the country for years pending removal*—are 'treated' for due

process purposes 'as if stopped at the border.'" *Thuraissigiam*, 591 U.S. at 139 (quoting *Mezei*, 345 U.S. at 215) (emphasis added); *see also Leng May Ma v. Barber*, 357 U.S. 185, 188–90 (1958). In other words, an applicant for admission paroled into the United States "remain[s] constructively detained at the border, *i.e.* legally unadmitted, while their status is being resolved by immigration officials." *Ibragimov v. Gonzales*, 476 F.3d 125, 134 (2d Cir. 2007); *see also Duarte v. Mayorkas*, 27 F.4th 1044, 1059 (5th Cir. 2022) ("[A] paroled alien is legally equivalent to an alien that is held in custody at the border while their application for admission is processed.").

ICE may terminate a parole under § 1182(d)(5)(A) when, "in the opinion of the Secretary of Homeland Security, "the purposes of such parole . . . have been served." 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i). As one example, when a Notice to Appear (NTA)—the charging document that initiates proceedings—is served on the parolee, this serves as written notice of termination of parole. *See Matter of Arambula-Bravo*, 28 I & N Dec. 388, 395 (BIA 2021) ("A charging document presumptively terminates parole because an intent to remove a noncitizen necessarily reflects a determination that the continued presence of that individual is no longer warranted."). No pre-termination hearing is required. *See Ofosu v. McElroy*, 98 F.3d 694, 700 (2d Cir. 1996) (explaining that parole "may be ended without hearings or special forms."); *Ahrens v. Rojas*, 292 F.2d 406, 410 (5th Cir. 1961) ("Neither the statute nor the regulation provides for a hearing on revocation of parole."). Further, at the expiration of the time for which parole was authorized, "[p]arole shall be automatically terminated without written notice." 8

C.F.R. § 212.5(e)(1)(ii).

d. Return to Custody After Parole Expiration or Termination

After parole is terminated, "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall *continue to be dealt with in the same manner as that of any other applicant for admission* to the United States." 8 U.S.C. § 1182(d)(5)(A) (emphasis added); 8 C.F.R. § 212.5(e)(2)(i) (explaining that after automatic termination, the alien "shall be restored to the status that he or she had at the time of parole"). Once parole is terminated, "[a]ny further inspection or hearing shall be conducted under section 235 [8 U.S.C. § 1225] or 240 [8 U.S.C. § 1229a] of the Act." 8 C.F.R. § 212.5(e)(2)(i); *see Ahrens,* 292 F.2d at 410 (noting that after parole termination, "the plaintiff's status was the same as if he had been stopped at the border."). The grant of parole and its termination is committed to the broad discretion of the Secretary. *See Samirah v. O'Connell*, 335 F.3d 545, 549 (7th Cir. 2003) (holding DHS's authority to "grant or revoke" parole under § 1182(d)(5)(A) is a matter of agency discretion barred from review by § 1252(a)(2)(B)(ii)); *Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010) (same).

II. FACTUAL AND PROCEDURAL HISTORY

Petitioner, a native and citizen of the Dominican Republic, entered the United States without inspection on or about March 3, 2023. *See* ECF 1, Exh. A; *see also* Exh. C. Given his time, manner, and place of entry, CBP determined that Petitioner was inadmissible to the United States and thereafter placed him into

expedited removal proceedings. *See* Exh. A – Notice and Order of Expedited ; Exh. C (memorializing Petitioner's encounter with CBP and stating that he "is amenable to an Expedited Removal and will be processed pursuant to INA § 235(b)(1)). However, after Petitioner claimed a fear of return to his home country, DHS referred Petitioner to USCIS for completion of a credible fear interview. *See* Exh. C. Following that interview, USCIS rendered a positive finding of credible fear and placed Petitioner into removal proceedings under 8 U.S.C. § 1229a through issuance of a NTA on March 10, 2023. *See* ECF 1, Exh. A (noting that the NTA is "being issued after an asylum officer has found that [the petitioner] has demonstrated a credible fear of persecution or torture"). On May 3, 2023, ICE exercised its discretion to parole Petitioner from its custody under 8 U.S.C. § 1182(d)(5); that parole was valid for one year. *See* Exh. D. ICE recently detained Petitioner on February 6, 2026, under 8 U.S.C. § 1225(b)(1), pending completion of his removal proceedings. *See* ECF 1 ¶ 56.

III. LEGAL STANDARD

A writ of habeas corpus is an "extraordinary remedy." *Shinn v. Ramirez*, 596 U.S. 366, 377 (2022). The petitioner bears the burden of showing his confinement is unlawful. *Hawk v. Olson*, 326 U.S. 271, 279 (1945); *accord Cullen v. Pinholster*, 563 U.S. 170, 181 (2011) (habeas petitioner "carries the burden of proof"); *see also* 28 U.S.C. § 2241.

Judicial review of immigration matters, including of detention issues, is limited. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *Reno v. Am.-Arab Anti-*

Discrimination Comm. (*AADC*), 525 U.S. 471, 489–92 (1999); *Miller v. Albright*, 523 U.S. 420, 434 n.11 (1998); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Reno v. Flores*, 507 U.S. 292, 305 (1993); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) ("[T]he power over aliens is of a political character and therefore subject only to narrow judicial review."). The Supreme Court has "underscore[d] the limited scope of inquiry into immigration legislation," and "has repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo*, 430 U.S. at 792 (internal quotation omitted); *Mathews v. Diaz*, 426 U.S. 67, 79–82 (1976); *Galvan v. Press*, 347 U.S. 522, 531 (1954).

The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure."); *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018) ("Congress has authorized immigration officials to detain some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives

immigration officials time to determine an alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

Petitioner must make a strong showing to demonstrate that his continued detention violates the Constitution or laws of the United States. *See U.S. v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) ("This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power").

IV. ARGUMENT

As discussed below, Petitioner's detention is authorized by statute, regulation, and comports with the Constitution and the Administrative Procedures Act. As such, this Court should deny the petition for a writ of habeas corpus.

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

Petitioner's argument that his detention violates the INA and accompanying regulations is without merit because ICE's current detention of Petitioner is authorized and, indeed, mandated by statute. Petitioner attempted to enter the United States without inspection in March 2023 and was not inspected, admitted, or paroled by an immigration officer at the time of that entry. ECF 1, Exh. A; Exh. B. Petitioner was therefore an "applicant for admission" and was accordingly processed for expedited removal under § 1225(b)(1)(A)(i). *See* Exhs. A-B.

i. Petitioner was properly processed for expedited removal

To the extent Petitioner argues that he was not properly processed for expedited removal, that argument is belied by the record of proceeding. The regulations at 8 C.F.R. § 235.3(b)(2)(i) set forth a process that must be applied before removing an alien under the expedited removal process. This process involves two separate steps: (i) completion of a Form I-860, Notice and Order of Expedited Removal, which advises the alien of the charges against him; and (ii) a contemporaneously executed Form I-867A, Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act, during which the alien will be given the opportunity to respond to the charges in the Form I-860. 8 C.F.R. § 235.3(b)(2)(i).

Here, the Form I-860, Notice and Order of Expedited Removal, is signed by the CBP officer who initially processed Petitioner, and also by Petitioner on the reverse side of the form, as required by 8 C.F.R. § 235.3(b)(2)(i) (explaining that the examining immigration official "shall serve the alien with the Form I-860 and the alien shall sign the reverse side of the form acknowledging receipt"). *See* Exh. A. The Form I-860 is further supported by the Form I-867A, Record of Sworn Statement, which memorializes the Spanish language interview between Petitioner and the same CBP officer. *See* Exh. B. Petitioner initialed each page of the statement and signed the last page as required by 8 C.F.R. § 235.3(b)(2)(i), acknowledging that the statement is "a full, true and correct record of [his] interrogation." *See id.* Thus, by completing a record of proceeding as required under

8 C.F.R. § 235.3(b)(2)(i), DHS properly initiated the initial expedited removal processing.

Petitioner was not removed following this initial expedited removal processing, however, because he expressed a fear of return to the Dominican Republic during his interview. *See* Exh. B at 2-4. The fact that Petitioner is no longer in expedited removal proceedings does not preclude continued detention under § 1225(b)(1). To the contrary, when Petitioner claimed a fear of returning to the Dominican Republic, he triggered the § 1225(b)(1)(B) process, which includes a referral to the United States Citizenship and Immigration Services (USCIS) for a credible fear interview and further (full removal) proceedings to consider Petitioner's application for asylum. 8 U.S.C. § 1225(b)(1)(B); Exh B. Until his removal proceedings under § 1229a are complete, which includes adjudication of his application for asylum application, or until he withdraws his application for admission pursuant to 8 U.S.C. § 1225(a)(4), Petitioner remains in this process. And, Congress has mandated that anyone going through this process "shall be detained pending a final determination of credible fear and persecution and, if found not to have such a fear, until removed." *Id.* § 1225(b)(1)(B)(ii); *see also id.* § 1225(b)(1)(B)(iii)(IV); *Jennings*, 538 U.S. at 297, 302 (section 1225(b)("mandate[s] detention of applicants for admission until proceedings have concluded."

ii. Petitioner's release on parole does not preclude detention under 8 U.S.C. § 1225(b)(1)

Importantly, ICE's release of Petitioner on parole pursuant to 8 U.S.C. § 1182(d)(5) does not preclude detention under § 1225(b)(1)(B)(ii). Petitioner may try

to argue that he is not subject to mandatory detention under § 1225(b)(1) because he has been paroled into the United States. *See* § 1225(b)(1)(A)(iii)(II) (applying the expedited removal provisions to certain other aliens "who have not been admitted or paroled into the United States"). However, the Court should reject this argument because the DHS Secretary's 2004 Expedited Removal Designation makes clear that this language applies only to certain categories of aliens who were admitted or paroled into the United States *following inspection by an immigration officer at a designated port-of-entry*. *See* Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877 (Aug. 11, 2004) (emphasis added); *see also* 8 U.S.C. § 1225(b)(1)(A)(iii)(I) (allowing the DHS Secretary to designate certain aliens for expedited removal and clarifying that this designation "shall be in the sole and unreviewable discretion" of the DHS Secretary). In this case, Petitioner entered the United States without inspection and is charged on his NTA as being present in the United States without admission or parole. *See* ECF 1, Tab A; Exh. C. Following this unlawful entry, DHS made the discretionary decision to parole Petitioner from its custody under § 1182(d)(5)(A). Exh. D. Importantly, this parole did not occur following inspection by an immigration officer at a designated port of entry. Therefore, Petitioner remains subject to the expedited removal provisions at § 1225(b)(1) and, in turn, mandatory detention.

Nor does ICE's release of Petitioner on parole pursuant to 8 U.S.C. § 1182(d)(5) convert DHS's detention authority from § 1225(b)(1) to § 1226 because, as noted above, parole "shall not be regarded as an admission of the alien." *Id.* §

1182(d)(5)(A). Rather, Congress was very explicit: "when the purposes of such parole have been served[,] the alien shall forthwith return or *be returned to the custody from which he was paroled* and thereafter his case shall continue to be dealt with *in the same manner as that of any other applicant for admission* to the United States." *Id.* (emphasis added). Regardless of the length of his parole, Petitioner remains "'treated' for due process purposes 'as if stopped at the border.'" *Thuraissigiam*, 591 U.S. at 139–40 (noting that "even those paroled elsewhere in the country for years" "cannot be said to have 'effected an entry' and remain "on the threshold."). Petitioner therefore remains subject to the same detention authority (§ 1225(b)(1)) until his claim for asylum is fully adjudicated and he is either granted asylum or removed. *See Jennings*, 583 U.S. at 302; *Thuraissigiam*, 591 U.S. at 111; *see also Woodley v. Rokosky*, Case No. 26-cv-00150 (D.N.J. Feb. 2, 2026) (denying habeas petition and finding detention lawful under § 1225(b)(1) for alien initially processed for expedited removal, notwithstanding prior grant of parole under § 1182(d)(5); *Faqirzada v. Rokosky*, No. 25-cv-16639 (D.N.J. Jan. 8, 2026) (same); *but see Talabadze v. Rose*, No. 26-cv-360 (E.D. Pa. Jan. 30, 2026) (Perez, J) (granting habeas petition and finding that a grant of parole under 1182(d)(5) forecloses mandatory detention under § 1225(b).

That Petitioner is properly detained under § 1225(b)(1) receives further support from the Attorney General's decision in *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019). In *M-S-*, the Attorney General overruled as wrongly decided an earlier BIA case, *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005), in which the BIA held that

aliens transferred to full proceedings after establishing a credible fear were eligible for bond. 27 I& N Dec. at 513–14. The Attorney General explained that, by its plain language, applicants for admission transferred to full removal proceedings after establishing a credible fear remain ineligible for bond. *Id.* at 515. Instead, this category of applicants for admission "must be detained until [their] removal proceedings conclude, unless [they] are granted parole." *Id.* at 509.

The BIA's decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), builds upon the Attorney General's holding in *M-S-*. For aliens like Petitioner who are placed into expedited removal proceedings and later referred to an immigration judge for consideration of their asylum application, the BIA affirmed that § 1225(b)(1)(B)(ii) mandates their detention until the final adjudication of their asylum application, unless that alien is granted parole. *Id.* at 68 (citing *M-S-*, 27 I&N Dec. at 516). If that parole is granted and later terminated, the BIA held that the alien is then returned to custody under § 1225(b) pending completion of removal proceedings. *Id.* at 70. Thus, the termination of Petitioner's parole—either through issuance of the NTA or expiration of his period of authorized parole—returned him to his initial custody status upon entry, *i.e.,* mandatory detention pursuant to § 1225(b)(1)(B)(ii).

iii. No written notice is required prior to revoking parole

If Petitioner argues that ICE improperly revoked his parole without first providing notice of such revocation, the Court should reject that argument. The regulations make clear that no written notice is required prior to terminating a prior discretionary parole decision under § 1182(d)(5)(A). *See* 8 C.F.R. §

212.5(e)(1)(ii) (explaining that parole *shall be automatically terminated without written notice* . . . at the expiration of the time for which parole was authorized . . . in accordance with 8 C.F.R. § 212.5(e)(2), *except that no written notice shall be required*) (emphasis added). Only when termination of parole is not automatic under § 212.5(e)(1)—in other words, when an alien has not departed the United States or the period of parole has not expired—is notice required under § 212.5(e)(2). *But see Talabadze v. Rose*, No. 26-cv-360 (E.D. Pa. Jan. 30, 2026) (Perez, J.) (finding notice required prior to granting parole); *Vasquez Diaz v. Rose,* No. 26-cv-342 (E.D. Pa. Feb. 10, 2026) (Gallagher, J.) (same).

The Interim Notice Authorizing Parole issued to Petitioner confirms the above regulatory scheme. The parole document states:

> Your parole authorization is valid for one year beginning from the date on this notice and *will automatically terminate* upon your departure or removal from the United States *or at the end of the one-year period* unless ICE provides you with an extension at its discretion. ICE may also terminate parole on notice prior to the automatic termination date. Parole is entirely within the discretion of ICE and can be terminated at any time and for any reason. Your parole is not valid for work authorization and is not an admission in lawful status.

Exh. D. Petitioner signed this document, thus placing him on notice of the terms of his parole, including the terms of its revocation. *Id.* Accordingly, no notice or formal hearing is required when, as here, the time for which parole was authorized has expired, and the automatic termination of Petitioner's parole was thus lawful.

Furthermore, the Court lacks jurisdiction to review a parole revocation decision under 8 U.S.C. § 1252(a)(2)(B), since it is plainly a discretionary "decision or action." *Samirah* 335 F.3d at 549 (holding DHS's authority to "grant or revoke"

parole under § 1182(d)(5)(A) is a matter of agency discretion barred from review by § 1252(a)(2)(B)(ii)); *Hassan*, 593 F.3d at 789 (same). Moreover, to the extent Petitioner is alleging that revocation of parole requires a case-by-case analysis, the Court should reject this argument. While 8 U.S.C. § 1182(d)(5)(A) requires that *grants* of parole be made on a case-by-case basis, it contains no parallel language with respect to terminations, and the language of § 1182(d)(5)(A) makes clear that such a determination is left entirely to the "opinion" of the DHS Secretary.

iv. Petitioner is not detained under 8 U.S.C. § 1225(b)(2)

Petitioner claims that DHS is detaining him under § 1225(b)(2) pursuant to the BIA's recent decision in *Hurtado*, 29 I&N Dec. at 216, and DHS's new policy. *See* ECF 1 ¶ 67. This is incorrect and misunderstands the facts and procedural history of Petitioner's case. As discussed above, Petitioner was processed for expedited removal upon entry into the United States and was subsequently found to have a credible fear of return to the Dominican Republic, thus bringing him within the mandatory detention authority of § 1225(b)(1). Therefore, Petitioner is detained under § 1225(b)(1), not § 1225(b)(2). Because Petitioner is properly detained under § 1225(b)(1) and not eligible for a bond hearing, this Court should deny the petition for a writ of habeas corpus.

b. Petitioner's Detention is Constitutional

Petitioner's argument that his detention violates procedural due process also lacks merit. The Supreme Court has long recognized that "an alien seeking initial admission to the United States requests a privilege and has no constitutional rights

regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Further, applicants for admission like Petitioner lack any constitutional due process rights with respect to admission aside from the rights provided by statute: "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned," *Mezei*, 345 U.S. at 212, and, "it is not within the province of any court, unless expressly authorized by law, to review [that] determination." *United States ex. rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950). *See also Thuraissigiam* 591 U.S. at 140 ("[T]he Due Process Clause provides nothing more.").

The Supreme Court reaffirmed "[its] century-old rule regarding the due process rights of an alien seeking initial entry" in *Thuraissigiam*, explaining that an individual who illegally crosses the border—like Petitioner—is an applicant for admission and "has only those rights regarding admission that Congress has provided by statute." 591 U.S. at 139–40. The *Thuraissigiam* Court explained that "[w]hile aliens who have established connections in this country have due process rights in deportation proceedings, the Court held long ago that Congress is entitled to set the conditions for an alien's lawful entry into this country and that, as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *Id.* at 107.

"When an alien arrives at a port of entry—for example, an international airport—the alien is on U.S. soil, but the alien is not considered to have entered the country." *Id.* at 139. The same "threshold" rule applies to individuals who are

apprehended after trying "to enter the country illegally" since by statute, such individuals are also defined as applicants for admission. *Id.* at 139–40. And all applicants for admission, "even those paroled elsewhere in the country for years pending removal," "have no entitlement to procedural rights other than those afforded by statute." *Id.* at 107, 139. And the statute provides no more procedural protections than allowing an applicant for admission to seek relief from removal if he fears return to his home country, and to seek parole from the agency. *Id.* During that process, however, applicants for admission may be detained without a bond hearing pending admission or removal without running afoul of the Constitution. *Demore v. Kim*, 538 U.S. 510, 531 (2003)

Petitioner's recent detention pending his removal proceedings thus does not violate Due Process. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention less than six months presumed constitutional). The Third Circuit has recognized that there may come a time when mandatory civil detention without a bond hearing becomes unreasonable. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c)). However, at this time, Petitioner does not challenge the reasonableness of his detention under *German Santos*. Therefore, the Court should find that Petitioner's detention is constitutional and deny the petition for writ of habeas corpus.

V. CONCLUSION

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

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Susan R. Becker for GBD
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

/s/ Daniella D. Lees
DANIELLA D. LEES
Special Assistant United States Attorney
ANTHONY ST. JOSEPH
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
daniella.lees@usdoj.gov

Dated: February 12, 2026

Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Response in Opposition to Petition for Writ of Habeas Corpus via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: February 12, 2026

/s/ Daniella D. Lees
DANIELLA D. LEES
Special Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSE VASQUEZ DE LA CRUZ	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 2:26-cv-00784
	:	
JAMAL L. JAMISON.,	:	
	:	
Respondents.	:	

Exhibit List

Exhibit A: Form I-860, Notice and Order of Expedited Removal, dated March 3, 2023

Exhibit B: Form I-867A, Record of Sworn Statement of Proceedings under Section 235(b)(1) of the Act, dated March 3, 2023

Exhibit C: Form I-213, Record of Deportable/Inadmissible Alien, dated March 3, 2023

Exhibit D: Interim Notice Authorizing Parole, dated May 3, 2023

U.S. Department of Homeland Security

Notice and Order of Expedited Removal

DETERMINATION OF INADMISSIBILITY

Event No: EGT2303000215

File No: [redacted]

Date: March 03, 2023

In the Matter of: JOSE ANGEL VASQUEZ-DE LA CRUZ

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Department of Homeland Security has determined that you are inadmissible to the United States under section(s) 212(a) ☐ (6)(C)(i); ☐ (6)(C)(ii); ☒ (7)(A)(i)(I); ☐ (7)(A)(i)(II); ☐ (7)(B)(i)(I); and/or ☐ (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

1. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act; to wit, you illegally entered the United States by crossing the Rio Grande River near the Eagle Pass, Texas Port of Entry on March 03, 2023 with the intention of going to Reading, PA. to reside and seek employment

EVA A. REYNA
Border Patrol Agent
Name and title of immigration officer (Print)

EVA A REYNA
Date: 2023.03.03 12:27:00 -06:00
0874365109.CBP
Signature of immigration officer

ORDER OF REMOVAL
UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

Name and title of immigration officer (Print)

Signature of immigration officer

Name and title of supervisor (Print)

Signature of supervisor, if available

☐ Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on _____ (Date)

Signature of immigration officer

Form I-860 (Rev. 08/01/07)

U .S. Department of Homeland Security

Notice and Order of Expedited Removal

ACKNOWLEDGEMENT

I acknowledge receipt of this notification Jose Angel

Signature of alien

U.S. Department of Homeland Security

Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act

Office: EAGLE PASS, TX, BORDER PATROL STATION

File No: [redacted]
Event No: EGT2303000215

Statement by: VASQUEZ-DE LA CRUZ, JOSE ANGEL

In the case of: JOSE ANGEL VASQUEZ-DE LA CRUZ

Date of Birth: [redacted]

Gender (select one): Male | Female

At: EAGLE PASS, TX, BORDER PATROL STATION

Date: March 03, 2023

Before: EVA REYNA — Border Patrol Agent
(Name and Title)

In the SPANISH language. Interpreter NONE Employed by

I am an officer of the United States Department of Homeland Security. I am authorized to administer the immigration laws and to take sworn statements. I want to take your sworn statement regarding your application for admission to the United States. Before I take your statement, I also want to explain your rights, and the purpose and consequences of this interview.

You do not appear to be admissible or to have the required legal papers authorizing your admission to the United States. This may result in your being denied admission and immediately returned to your home country without a hearing. If a decision is made to refuse your admission into the United States, you may be immediately removed from this country, and if so, you may be barred from reentry for a period of 5 years or longer.

This may be your only opportunity to present information to me and the Department of Homeland Security to make a decision. It is very important that you tell me the truth. If you lie or give misinformation, you may be subject to criminal or civil penalties, or barred from receiving immigration benefits or relief now or in the future.

Except as I will explain to you, you are not entitled to a hearing or review.

U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer about your fear or concern. That officer will determine if you should remain in the United States and not be removed because of that fear.

Until a decision is reached in your case, you will remain in the custody of the Department of Homeland Security.

Any statement you make may be used against you in this or any subsequent administrative proceeding.

Q. Do you understand what I have said to you?
A. Yes.
Q. Do you have any questions?
A. No.
Q. Are you willing to answer my questions at this time?
A. Yes.
Q. Do you swear or affirm that all statements you are about to make are true and complete?
A. Yes.

IDENTITY:
Q. What is your complete and correct name?
A. Jose Angel Vasquez-De La Cruz.
...(CONTINUED ON I-831)

Initials: JA VC

U.S. Department of Homeland Security — Continuation Page for Form I867A

Alien's Name	File Number	Date
JOSE ANGEL VASQUEZ-DE LA CRUZ	[redacted] Event No:EGT2303000215	March 03, 2023

Q. Have you ever used any other names?
A. No.
Q. When and where were you born?
A. I was born on [redacted] n Yamasa, Dominican Republic.
Q. Of what country are you a citizen?
A. Dominican Republic.
Q. Of what country are your parents citizens?
A. Dominican Republic.
Q. Where do your parents reside?
A. They live in Dominican Republic.
Q. Do you have any document issued by a legal authority that permits you to enter, live, or work in the United States?
A. No.
Q. Did your parents ever have any legal immigration documents that allowed them to enter, live, or work in the United States?
A. No.
Q. Have your parents ever resided in the United States?
A. No.
Q. Were your parents ever United States citizens?
A. No.
Q. Do you have any claim to being a citizen of the United States?
A. No.
Q. Do you have any United States immigration petitions pending on your behalf?
A. No.

INADMISSIBILITY:
Q. When did you last enter the United States?
A. I entered the United States 03/03/2023 at about 5:34 AM.
Q. How and where did you last enter the United States?
A. I walked across the Rio Grande River near Eagle Pass, Texas.
Q. Were you inspected by an Immigration Officer at a port of entry?
A. No until after.
Q. What was your purpose for your last entry into the United States?
A. To seek asylum.
Q. Where were you going?
A. To Pennsylvania.
Q. If you are sent back to your country, do you fear that you will be persecuted or tortured?
A. Yes.
Q. Would you be harmed if you are returned to your country?
A. Yes.
Q. Did you seek asylum in Mexico?
A. No.
Q. Were you part of the migrant caravan during your travels from your home country prior to your illegal entry into the United States?

Initials: _____

Signature	Title
EVA A REYNA Date: 2023.03.03 12:28:09 -06:00 0874365109 CBP	Border Patrol Agent

U.S. Department of Homeland Security — Continuation Page for Form I867A

Alien's Name	File Number	Date
JOSE ANGEL VASQUEZ-DE LA CRUZ	[redacted] Event No:EGT2303000215	March 03, 2023

A. No.
Q. How long did you intend to stay in the United States?
A. Until, things get better in my country.
Q. Have you ever resided in the United States?
A. No.

CONSULATE RIGHTS:
Q. Do you wish to speak to a Consular Officer of your country?
A. No.

Initials: JAVC

Signature	Title
EVA A REYNA Date: 2023.03.03 12:28:24 -06:00 0874365109 CBP	Border Patrol Agent

U.S. Department of Homeland Security

Jurat for Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act

Q: Why did you leave your home country or country of last residence?

A. I left because I am being threatened with my life.

Q. Do you have any fear or concern about being returned to your home country or being removed from the United States?

A. Yes.

Q. Would you be harmed if you are returned to your home country or country of last residence?

A. Yes.

Q. Do you have any question or is there anything else you would like to add?

A. No.

I have read (or have had read to me) this statement, consisting of 4 pages (including this page). I state that my answers are true and correct to the best of my knowledge and that this statement is a full, true and correct record of my interrogation on the date indicated by the above named officer of the Department of Homeland Security. I have initialed each page of this statement (and the corrections noted on page(s)_____).

Signature: _____

Sworn and subscribed to before me at EAGLE PASS, TX, BORDER PATROL STATION on March 03, 2023.

EVA A REYNA
Date: 2023.03.03 12:28:43 -06:00
0874365109.CBP

EVA A. REYNA

Signature of Immigration Officer

Witnessed by: _____

DORIAN GARBACZ

U.S. Department of Homeland Security Subject ID: [redacted] **Record of Deportable/Inadmissible Alien**

Family Name (CAPS)	First	Middle
VASQUEZ-DE LA CRUZ,	JOSE	ANGEL

Sex	Hair	Eyes	Cmplxn
M	BLK	BLK	FAR

Country of Citizenship	Passport Number and Country of Issue	File Number
DOMINICAN REPUBLIC	See Narrative	CASE No:EGT2303000215 [redacted]

Height	Weight	Occupation
65	189	LABORER

U.S. Address: [redacted], PENNSYLVANIA, 19605-3057

Scars and Marks: See Narrative

Date, Place, Time, and Manner of Last Entry: 03/03/2023, 0500, 15 mile(s) NW of EGP, ewi

Passenger Boarded at:

F.B.I. Number: [redacted]

Marital Status: [X] Single [ ] Divorced [ ] Married [ ] Widower [ ] Separated

Number, Street, City, Province (State) and Country of Permanent Residence: YAMASA, YAMASA, DOMINICAN REPUBLIC

Method of Location/Apprehension: PB

Date of Birth	Age	Date of Action	Location Code	At/Near	Date/Hour
[redacted]	23	03/03/2023	DRT/EGT	EAGLE PASS, TX	03/03/2023 0534

City, Province (State) and Country of Birth: YAMASA, DOMINICAN REPUBLIC

AR [X] Form : (Type and No.) Lifted [ ] Not Lifted [ ]

By: ANTHONY MAIELLI, JOSE M. MOLINA-CARRAZCO

NIV Issuing Post and NIV Number:

Social Security Account Name:

Status at Entry: PWA Mexico

Status When Found: TRAVEL/SEEKING

Date Visa Issued:

Social Security Number:

Length of Time Illegally in U.S.: AT ENTRY

Immigration Record: NEGATIVE

Criminal Record:

Name , Address, and Nationality of Spouse (Maiden Name, if Appropriate):

Number and Nationality of Minor Children:

Father's Name, Nationality, and Address, if Known: See Narrative

Mother's Present and Maiden Names, Nationality, and Address, if Known: See Narrative

Monies Due/Property in U.S. Not in Immediate Possession: None Claimed

Fingerprinted? [ ] Yes [ ] No

Systems Checks: See Narrative

Charge Code Words(s): I7A1

Name and Address of (Last)(Current) U.S. Employer:

Type of Employment:

Salary: Hr

Employed from/to:

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FINS #: [redacted] I77 #:15290184 DNA Envelope #:F1443445

Left Index Print

Right Index Print

[redacted]

[redacted]

CONSEQUENCE DELIVERY SYSTEM:

Classification: FIRA

EVA A REYNA
Date: 2023.03.03 12:26:16 -06:00
0874365109.CBP

EVA A REYNA
Date: 2023.03.03 12:26:13 -06:00
0874365109.CBP

Alien has been advised of communication privileges 03/03/2023 (Date/Initials)

EVA A. REYNA
Border Patrol Agent
(Signature and Title of Immigration Officer)

Distribution:

Received: (Subject and Documents) (Report of Interview)

Officer: EVA A. REYNA

on: March 03, 2023 at 1310 (time)

Disposition: Expedited Removal with Credible Fear

Examining Officer: MYRNA GONZALEZ

Form I-213 (Rev. 08/01/07) Y

EOIR – 1 of 3

U.S. Department of Homeland Security **Continuation Page for Form** I213

Alien's Name	File Number	Date
VASQUEZ-DE LA CRUZ, JOSE ANGEL	[redacted] Event No:EGT2303000215	03/03/2023

PASSPORT NUMBER AND COUNTRY OF ISSUE:

PASSPORT #: [redacted] **DOMINICAN REPUBLIC**

SCARS, MARKS, AND TATTOOS:

None Visible
MOLE CHEEK (FACE), LEFT

FATHER NAME AND ADDRESS:

VASQUEZ, JOSE

YAMASA, YAMASA, DOMINICAN REPUBLIC

MOTHER NAME AND ADDRESS:

DE LA CRUZ-SANCHEZ, JUANA

YAMASA, YAMASA, DOMINICAN REPUBLIC

FUNDS IN POSSESSION:

United States Dollar 221.00

[redacted]

NARRATIVE:

ENCOUNTER:
Subject was encountered by Border Patrol Agents in the brush in the Del Rio Sector area of operations. After a brief interview, it was determined that this subject was not a citizen or resident of the United States. Subject was placed under arrest, transported to a Border Patrol Station for further processing, and advised of their rights.

IMMIGRATION CHECKS:

Signature	Title
EVA A. REYNA EVA A REYNA Date: 2023.03.03 12:26:19 -06:00 0874365109.CBP	Border Patrol Agent

U.S. Department of Homeland Security — **Continuation Page for Form** I213

Alien's Name	File Number	Date
VASQUEZ-DE LA CRUZ, JOSE ANGEL	[redacted] Event No:EGT2303000215	03/03/2023

Negative

CRIMINAL HISTORY:
Negative

CREDIBLE FEAR STATEMENT:
Subject claims to have fear of being returned to their native country.

CONSULATE NOTIFICATION:
The subject was notified of the right to communicate with a consular officer. Subject waived their consular notification rights.

HEALTH SCREEN:
The subject appears to be in good health. The CBP-2500 Medical form has been completed.

Property and Money:
FUNDS: $221.00 USD

Personal Property (CBP-I77): Bag # 15290184

DISPOSITION:
1182 - Sent to ICE/ERO for detention/bedspace/removal

Subject is amenable to an Expedited Removal and will be processed pursuant to INA235 (b)(1). Subject was advised that they may not return to the United States for a period of 5 years and if they do, they will be subject to a Reinstatement of a Prior Order of Removal. Subject is being charged with 8 USC 1182. Subject will be transferred to the custody of ICE/ERO for removal.

Signature	Title
EVA A. REYNA — EVA A REYNA Date: 2023.03.03 12:26:23 -06:00 0874365109.CBP	Border Patrol Agent

4026990026010 4903626 334554 43 1785656 012726 22:46 012626 AOS_ELIS-4109

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

Date: 05/03/2023
In Reference to: A [redacted]
Name: Vasquez-De La Cruz, Jose Angel

INTERIM NOTICE AUTHORIZING PAROLE

This letter is to inform you that U.S. Immigration and Customs Enforcement (ICE) has decided to parole you from its custody pursuant to its authority under section 212(d)(5)(A) of the Immigration and Nationality Act. This notice is being issued to you in lieu of Form I-94, *Arrival-Departure Record*, *see* 8 C.F.R. § 235.1(h)(2), and you should maintain a copy of this letter in your possession at all times.

Your parole authorization is valid for one year beginning from the date on this notice and will automatically terminate upon your departure or removal from the United States or at the end of the one-year period unless ICE provides you with an extension at its discretion. ICE may also terminate parole on notice prior to the automatic termination date. Parole is entirely within the discretion of ICE and can be terminated at any time and for any reason. Your parole is not valid for work authorization and is not an admission in lawful status.

Parole is conditioned on you complying with the terms and conditions of your release. You must notify ICE and the immigration judge of any address correction or address change. You must report for every scheduled hearing before the immigration court and every appointment as directed by ICE (including for removal from the United States should you become subject to a final removal order). You must not violate any local, State or Federal laws or ordinances. You must comply with any other specified conditions if identified separately.

I certify that I received a copy of this notice.

Vasquez-De La Cruz, Jose Angel	Jose Angel	05/03/2023
Alien Name	Alien Signature	Date

CERTIFICATE OF SERVICE

I certify that on today's date, I served the respondent a copy of this parole notice by the following method (as checked):

☑ In person ☐ Other: _____

G. Rodriguez; DO		05/03/2023
ICE Official Name	ICE Official Signature	Date
Garcia, Esteban A; SDDO		05/03/2023
Deciding Official Name	Deciding Official Signature	Date

Parole bond on the amount of: