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

ALEKSANDR PIURBEEV, Petitioner v. MICHAEL ROSE, et al., Respondents.	Civil Case No.: 2:26-cv-910

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

In their Response, Respondents offer no case-specific facts; Respondents do not shed any light on why Petitioner was detained, whether or when Petitioner's parole was revoked, or what specific interest the government has in detaining Petitioner, who has been a productive and law-abiding member of our society for over three years.

This case is not meaningful different from several cases decided by this Court. *See eg. Salgado Campana v. Rose*, et al, 2:26-cv-00199-KBH, Dkt 6 (E.D. Pa. Jan 20, 2026); *Ali v. Jamison, et al.*, No. 26-cv-729-NIQA, Dkt. 7 (E.D. Pa. Feb. 19, 2026); *Talabadze v. Rose, et al.,* 2:26-cv-00360-MRP, Dkt. 10 (E.D. Pa. Jan. 30, 2026); *Sadykov v. Rose, et al.,* 2:26-cv-00086-JMY, Dkt. 10 (E.D. Pa. Jan. 16, 2026); *Muev v. O'Neill, et al.*, 2:25-cv-07172-JMG, Dkt. 4 (E.D. Pa. Jan. 13, 2026); *Kulishov v. O'Neill et al,* 2:25-cv-07171-JHS, Dkt. 5 (E.D. Pa. Jan 14, 2026); *Seminario-Marcos v. Jamison, et al.*, No. 26-cv-421 (E.D. Pa Feb. 6, 2026); *Vazquez-Diaz v. Rose, et al.*, No. 26-cv-342 (E.D. Pa Feb. 10, 2026); *Pkhaladze v. Rose, et al.*, 25-cv-509 (E.D. Pa Feb. 10, 2026).

Nor is it meaningfully different that several other cases decided around the country. *See eg., Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123 (D. Or. 2025); *A-J-R v. Rokosky*, 2026 WL 25056 (D.N.J. 2026); *Munoz Materano v. Arteta*, 2025 WL 2630826 (S.D.N.Y. 2025); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128 (W.D.N.Y. 2025); *Pablo-Mendoza v. Lynch*, 2026 WL 40070 (W.D. Mich. 2026); *Yakubiv v. Raycraft*, 2026 WL 19099 (W.D. Mich. 2026); *Guerrero Rujano v. Lynch*, 2026 WL 18618 (W.D. Mich. 2026); *Gabriel v. Bondi*, 2025 WL 3443584 (D. Minn. 2025); *Rodriguez Cabrera v. Mattos*, 2025 WL 3072687 (D. Nev. 2025); *L-J-P-L- v. Wamsley*, 2025 WL 2430268 (D. Or. 2025); *Ramirez Tesara v. Wamsley*, ___ F. Supp. 3d ___ (W.D. Wash. 2025); *E.A.P.C. v. Wofford*, 2026 WL 32833 (E.D. Cal. 2026); *Ana Gisela Valle Garcia v. Chesnut*, 2025

WL 3771348 (E.D. Cal. 2025); *Selim Kirboga v. LaRose*, 2025 WL 3779426 (S.D. Cal. 2025); *J.E.H.G. v. Chesnut*, 2025 WL 3523108 (E.D. Cal. 2025); *Aguilera v. Albarran*, 2025 WL 3485016 (E.D. Cal. 2025); *Castillo v. Wofford*, 2025 WL 3466064 (E.D. Cal. 2025); *E.A.P.C. v. Wofford*, 2025 WL 3289185 (E.D. Cal. 2025); *Arias v. LaRose*, 2025 WL 3295385 (S.D. Cal. 2025); *M.R.R. v. Chestnut*, 2025 WL 3265446 (E.D. Cal. 2025); *Ramandi v. Field Office Director, ICE ERO San Francisco*, 2025 WL 3182732 (E.D. Cal. 2025); *M.V.I. v. Andrews*, 2025 WL 3154403 (E.D. Cal. 2025); *O.P.A.M. v. Wofford*, 2025 WL 3120552 (E.D. Cal. 2025); *C.A.R.V. v. Wofford*, 2025 WL 3059549 (E.D. Cal. 2025); *J.S.H.M. v. Wofford*, 2025 WL 2938808 (E.D. Cal. 2025); *Noori v. LaRose*, 2025 WL 2800149 (S.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2675785 (E.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2581185 (E.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2609456 (E.D. Cal. 2025); *Martinez Hernandez v. Andrews*, 2025 WL 2495767 (E.D. Cal. 2025); *Salazar v. Kaiser*, 2025 WL 2456232 (E.D. Cal. 2025); *Garcia v. Andrews*, 2025 WL 2420068 (E.D. Cal. 2025); *Castellon v. Kaiser*, 2025 WL 2373425 (E.D. Cal. 2025); *Maklad v. Murray*, 2025 WL 2299376 (E.D. Cal. 2025); *Villegas-Gonzalez v. Lynch*, 2025 WL 3767939 (W.D. Mich. 2025); *Morales Benavente v. Raycraft*, 2025 WL 3760755 (W.D. Mich. 2025); *Kenzhebaev v. Noem*, 2025 WL 3737975 (W.D. Mich. 2025); *Padilla Hernandez v. Raycraft*, 2025 WL 3730936 (W.D. Mich. 2025); *Tezara Munoz v. Lynch*, 2025 WL 3687338 (W.D. Mich. 2025); *Gil Pirona v. Noem*, 2025 WL 3687339 (W.D. Mich. 2025); *Rodriguez v. Raycraft*, 2025 WL 3673583 (W.D. Mich. 2025); *Quintero-Martinez v. Raycraft*, 2025 WL 3649515 (W.D. Mich. 2025); *Marin v. Lynch*, 2025 WL 3533028 (W.D. Mich. 2025); *Arevalo v. Lynch*, 2025 WL 3522106 (W.D. Mich. 2025); *Ocanto v. Lynch*, 2025 WL 3522113 (W.D. Mich. 2025); *Martinez v. Raycraft*, 2025 WL 3511093 (W.D. Mich. 2025); *Zelaya v. Lynch*, 2025 WL 3496472 (W.D. Mich. 2025); *Huaman Villanueva v. Chestnut*, 2026 WL 19120 (E.D. Cal. 2026); *Colina-Meira v. Lyons*, 2025 WL

3769424 (E.D. Cal. 2025); *Mohammadi v. LaRose*, 2025 WL 3731737 (S.D. Cal. 2025); *Bornachera Florez v. Robbins*, 2025 WL 3718832 (E.D. Cal. 2025); *Gergawi v. LaRose*, 2025 WL 3719321 (S.D. Cal. 2025); *Martinez v. LaRose*, 2025 WL 3677938 (S.D. Cal. 2025); *Singh v. Albarran*, 2025 WL 3640678 (E.D. Cal. 2025); *Ramirez-Bibiano v. LaRose*, 2025 WL 3632748 (S.D. Cal. 2025); *Yasin v. LaRose*, 2025 WL 3638140 (S.D. Cal. 2025); *Khorsheed v. LaRose*, 2025 WL 3638141 (S.D. Cal. 2025); *Bora v. Otay Mesa Detention Center Warden*, 2025 WL 3539166 (S.D. Cal. 2025); *A.V.V. v. LaRose*, 2025 WL 3493566 (S.D. Cal. 2025); *Araujo v. LaRose*, 2025 WL 3278016 (S.D. Cal. 2025); *Perez v. LaRose*, 2025 WL 3171742 (S.D. Cal. 2025); *Ramazan M. v. Andrews*, 2025 WL 3145562 (E.D. Cal. 2025); *Salazar v. Casey*, 2025 WL 3063629 (S.D. Cal. 2025); *Villanueva v. Chestnut*, 2025 WL 2996559 (E.D. Cal. 2025); *Boutta v. Raycraft*, 2025 WL 3628232 (W.D. Mich. 2025).

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is 38-year-old [redacted] who fled Russia with his wife. [redacted] so they fled to seek Asylum in the United States. Per the U.S. Government's instructions, and in the interest of doing things 'the right way' Petitioner made an appointment at the U.S. port of entry at Calexico, California through the CBP One mobile app.

On January 2, 2023, Petitioner and his wife presented themselves to the U.S. Customs and Border Protection (CBP) agency at the Calexico, California port of entry at their scheduled appointment. Upon presenting themselves and expressing their intent to seek asylum in the United States, CBP was well within their right to place them in mandatory detention pursuant to 8 U.S.C. § 1225(b). CBP interviewed the couple to review their potential asylum claim and determine whether they presented a security risk or a risk of absconding. According to CBP "All individuals

processed at POEs are thoroughly screened and vetted, and individuals who pose a national security or public safety concern are detained. On a case-by-case basis, those with CBP One appointments may be enrolled in immigration proceedings that will determine whether they have a legal basis to remain in the United States." *See* DHS Fact Sheet: CBP One, available at: https://www.dhs.gov/archive/news/2023/08/03/fact-sheet-cbp-one-facilitated-over-170000-appointments-six-months-and-continues-be)

Based on Petitioner's individualized facts and circumstances, Petitioner and his family were granted permission to lawfully enter the United States on a temporary basis and given humanitarian parole under 8 U.S.C. § 1182(d)(5) while they pursued their applications for asylum. Thus, on January 2, 2023, Petitioner was permitted lawfully to enter and remain in the United States while his immigration proceedings progressed. *See* ECF 1, Exhs A & B. He was issued an I-94, Record of Entry, as well as a Notice to Appear (NTA) in immigration court. *Id.* Additionally, as a condition of his parole he was required to check-in with Immigration and Customs Enforcement (ICE) at regular intervals.

Petitioner submitted a timely asylum application, attended his immigration court hearings, and complied with his ICE check-ins. *See* ECF 1. He obtained employment authorization and a social security card and was otherwise a law abiding and productive member of society.

So far, everything had been done precisely as Congress had directed under federal immigration laws, including 8 U.S.C. §§ 1182(d)(5) and 1225. That is until February 10, 2026, when Petitioner appeared for his ICE check-in; at that appointment, without notice or any change in circumstances, Petitioner was detained by ICE officers and informed that, in essence, ICE was revoking his parole and now choosing to detain him under § 1225(b), simply 'because.'

Petitioner, though he followed the law and instruction of the government in lockstep over the three-year period since he entered, has now had his liberty stripped from him without meaningful notice, explanation or rationale.

ICE took Petitioner into custody that day; in essence, ICE was revoking his parole and now, three years after their first opportunity, choosing to detain him under § 1225(b). Upon information and belief, Petitioner's arrest was not based on changed circumstances, additional information, or newly discovered security concerns. Petitioner's arrest in detention is solely part of the current administrations goal of deporting as many people as possible, as quickly as possible. They Government was not and is not interested in the fair and orderly conclusion of Petitioner's immigration proceedings, rather their interest lies in detaining him, treating him inhumanely, making him as uncomfortable as possible in detention, pushing his case through to a temporary immigration judge who will deny his application for asylum (very possibly without even holding a hearing), and pushing him to accept deportation instead of undergo the long appeal process while detained for months or even years, all while separated from his family

III. SECTION 1226, NOT SECTION 1225 GOVERNS PETITIONER'S DETENTION

The simplest and most widely accepted argument in favor of Petitioner is that section 1225(b) "authorizes the Government to detain certain [noncitizens] *seeking* admission into the country," while Section 1226(a) and (c) "authorizes the government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added). Petitioner is unquestionably in the latter category, as he entered the country on May 1, 2024, and was subsequently paroled. *Sadykov v. Rose, et al.,* 2:26-cv-00086-JMY, Dkt. 10 (E.D. Pa. Jan. 16, 2026) [providing long sting cite of similar cases within the Eastern District of Pennsylvania and outside]; *Muev v. O'Neill, et al.*, 2:25-cv-07172-JMG,

Dkt. 4 (E.D. Pa. Jan. 13, 2026); *Kulishov v. O'Neill et al,* 2:25-cv-07171-JHS, Dkt. 5 (E.D. Pa. Jan 14, 2026)*H.L.P.F. v. Wamsley*, No. 6:25-CV-01899-AA, 2025 WL 3539252, at *2 (D. Or. Dec. 10, 2025); *see also, A-J-R v. Rokosky,* No. 25-17279 (RMB), 2026 WL 25056, at *4 (D.N.J. Jan. 5, 2026).

Here, as in similar cases, "because § 1225(b)(1)(A)(iii)(II) applies only to individuals "who have not been ... paroled," the plain language of the statute clearly and unambiguously shows that § 1225(b)(1)(A)(iii) cannot serve as the basis for Petitioner's detention." *Rivas Rodriguez v. Rokosky*, No. CV 25-17419 (CPO), 2025 WL 3485628, at *2 (D.N.J. Dec. 3, 2025). Furthermore, once Petitioner was paroled into the United States, his parole automatically terminates without written notice only upon his departure from the United States or the expiration of time for which his parole was authorized. 8 C.F.R. § 212.5(e). *A-J-R v. Rokosky*, 2026 WL 25056, at *4; *see also Rodriguez v. Rokosky*, 2025 WL 3485628, at *2 ["Petitioner was paroled into the United States in September 2021 pursuant to the Department of Homeland Security's exercise of discretion under 8 U.S.C. § 1182(d)(5)(A), following a medical risk review [] and because § 1225(b)(1)(A)(iii)(II) applies only to individuals "who have not been ... paroled," the plain language of the statute clearly and unambiguously shows that § 1225(b)(1)(A)(iii) cannot serve as the basis for Petitioner's detention."]; *see also Rodriguez-Acurio v. Almodovar,* No. 25-6065, 2025 WL 3314420, at *15–17 (E.D.N.Y. Nov. 28, 2025) [concluding that "has not been ... paroled" in § 1225(b)(1)(A)(iii)(II) describes a past event of parole, not a present status, because the present-perfect tense captures whether parole occurred "at any time in the indefinite past," and that although the term "parole" can refer to both a manner of entry and legal status, contextual clues, such as the pairing of "admitted or paroled into the United States," show that Congress referred to a manner of entry, not an ongoing legal status) (cleaned up)].

Moreover, Respondents offer no statutory-interpretation argument to the contrary and do not provide any analysis as to the text, structure, or grammar of § 1182(d)(5)(A) or § 1225(b)(1); nor do Respondents dispute that Petitioner has resided in the United States continuously since June 2024. Respondents cite to several cases in support of their argument that §1225 should apply to Petitioner; however, those cases do not involve non-citizens who were never released from their custody – accordingly, they do not answer the question of what happens once a person paroled into the United States is returned to custody. *See eg.,Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 115, 140 S. Ct. 1959, 1968, 207 L. Ed. 2d 427 (2020) [Thuraissigiam failed his credible fear interview, was issued an expedited removal order, and never released from custody]; *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 73 S.Ct. 625, 97 L.Ed. 956 [in which a non-citizen was indefinitely detained as he attempted to reenter the country]; *Jennings v. Rodriguez*, 583 U.S. 281, 297, 138 S. Ct. 830, 842, 200 L. Ed. 2d 122 (2018) [discusses detention under §1225, but not in the context of someone paroled and later re-detained before his asylum application is adjudicated].

Because § 1225(b)(1)(A)(iii)(II) applies only to individuals "who have not been ... paroled," the plain language of the statute clearly and unambiguously shows that § 1225(b)(1)(A)(iii) cannot serve as the basis for Petitioner's detention.

IV. STATUTORY AND REGULATORY BASIS FOR PETITIONER'S PAROLE AND RECENT DETENTION

Petitioner entered the United States at a port of entry, seeking asylum, and was subsequently paroled into the United States under 8 U.S.C. § 1182(d)(5)(A).

The Immigration and Nationality Act ("INA") "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132

(D. Or. 2025). "Noncitizens who arrive at a port of entry without a visa or other entry document, like Petitioner, are deemed 'inadmissible' under 8 U.S.C. § 1182(a)(7)" due to their lack of entry documents. *Id.* at 1132 & n.7 (noting that "[d]epending on the circumstances, other categories of inadmissibility may also apply, but § 1182(a)(7) applies for noncitizens without proper documentation"). Once a noncitizen is deemed inadmissible, "the immigration officer must order the noncitizen's removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution." *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). The government may place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or the government may place the noncitizen into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)). In the instant matter, the government placed Petitioner into regular removal proceedings under 8 U.S.C. § 1229(a).

Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). However, "applicants for admission may be temporarily released on parole [into the United States] 'for urgent humanitarian reasons or significant public benefit,'" as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A). Then, "when the purpose of the parole has been served," § 1182(d)(5)(A) provides that "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." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

To terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements. As set forth in 8 C.F.R. § 212.5(e)(2)(i), which governs the "[t]ermination of parole":

> 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.

8 C.F.R. § 212.5(e)(2)(i). That is, "[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole." *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)). As explained below, Respondents have failed to follow the applicable statutory and regulatory provisions to terminate Petitioner's parole.

V. REVOCATION OF PAROLE IS NOT "DISCRETIONARY"

As set forth in 8 C.F.R. § 212.5(e)(2)(i), which governs the "[t]ermination of parole":

> "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."

8 C.F.R. § 212.5(e)(2)(i). That is, "[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole." *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)). The purpose of Petitioner's parole – to apply for asylum – was not accomplished and has not been completed – in

other words, the purpose of his parole has not been served; and Respondents can point to no other reason for the revocation of Petitioner's parole.

Additionally, the revocation of parole is not discretionary – to come to this conclusion one would need to make the illogical leap that "opinion" is equivalent to "discretion." Congress gave the Secretary of Homeland Security authority to terminate parole grants when, "in [her] opinion," the purpose of parole has been served. 8 U.S.C. § 1182(d)(5)(A) The entire text of 8 U.S.C. § 1182 uses the word "discretion" approximately 25 times; Congress certainly *could have* written section 1182(d)(5)(A) to state "in the [*discretion*] of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody" … but it did not do so. We "presume that Congress expressed its legislative intent through the ordinary meaning of the words it chose to use." *United States v. Knox*, 32 F.3d 733, 744 (3d Cir. 1994). Congress did not use "discretion" in lieu of "opinion", likely because an "opinion" is significantly distinct from a discretionary determination. An opinion is a judgment, belief, or evaluation; a discretionary decision, on the other hand, is one where the decision-maker is free to choose among multiple acceptable options without being strictly bound by rules or criteria. But here, based on the statute and the regulations, *there are rules and criteria* for the revocation of Petitioner's parole and his related re-detention.

It is worth repeating, the purpose of Petitioner's parole – to apply for asylum – was not accomplished and has not been completed – in other words, the purpose of his parole has not been served; and Respondents can point to no other reason for the revocation of Petitioner's parole.

a. Revocation of parole requires a case-by-case analysis

Parole revocations in the context of the INA must occur on a case-by-case basis and may occur "when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which

he was paroled." *Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *12 (quoting 8 C.F.R. § 212.5(e)). 8 C.F.R. § 212.5(e) requires written notice of the termination of parole except where the immigrant has departed or when the specified period of parole has expired.

Applying *Y-Z-H-L* and § 212.5(e), in *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025), the court found that the INA requires a case-by-case analysis as to the decision to revoke humanitarian parole:

> "This Court agrees that both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole "must attend to the reasons an individual [noncitizen] received parole." *See id.* There is no indication in the record that the government conducted any such analysis here. On the contrary, the letter Mata Velasquez received merely stated summarily that DHS had "revoked [his] parole." Docket Item 62-1 at 5. Thus, there is no indication that—as required by the statute and regulations—an official with authority made a determination specific to Mata Velasquez that either "the purpose for which [his] parole was authorized" has been "accomplish[ed]" or that "neither humanitarian reasons nor public benefit warrants [his] continued presence...in the United States." *See* 8 C.F.R. § 212.5(e)(2)(i). As a result, DHS's revocation of Mata Velasquez's parole violated his rights under the statute and regulations. *See Y-Z-L-H, 2025* WL 1898025, at *13."

In *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025), the court reached a similar conclusion relying on the Due Process Clause:

> "... **even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody.** *See Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022) ("[T]his Court joins other courts of this district facing facts similar to the present case and finds Petitioner raised serious questions going to the merits of his claim that due process requires a hearing before an IJ prior to re-detention."); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond.")."

Id. (emphasis added). Other courts have held similarly. *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025); *see 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.").

Again, purpose of Petitioner's parole – to apply for asylum – was not accomplished and has not been completed – in other words, the purpose of his parole has not been served; and Respondents can point to no other reason for the revocation of Petitioner's parole.

VI. DUE PROCESS

Petitioner has lived freely in the United States for over three years – establishing himself as law-abiding members of the community. His presence in the United States was birthed by Respondents themselves, who on January 2, 2023, analyzed Petitioner's individualized facts and circumstances, and thereafter granted him permission to lawfully enter the United States while Petitioner pursued his application for asylum. Then, abruptly, and without *any* reason proffered by Respondents, and certainly without any notice to Petitioner, that freedom was ripped away from Petitioner on February 10, 2026, when Petitioner, while continuing to follow Respondents' orders in lock-step, appeared for his scheduled check-in and was detained without notice.

"The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Matthews v. Eldridge*, 424 U.S. 319, 348 (1976). Respondents neglect the fact that Petitioner's constitutional rights were solidified when he was, on June 13, 2024, permitted to "pass through our gates." An alien who is "on the threshold of initial entry" stands on a footing different from those who have "passed through our

gates." *Chi Thon Ngo v. I.N.S.*, 192 F.3d 390, 396 (3d Cir. 1999), amended (Dec. 30, 1999), quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544, 70 S.Ct. 309, 94 L.Ed. 317 (1950)).

The Fifth Amendment protects the right to be free from deprivation of life, liberty or property without due process of law. U.S. CONST. amend. V. The Due Process Clause extends to all "persons" regardless of status, including non-citizens, whether here lawfully, unlawfully, temporarily, or permanently. *Zadvydas* at 693. To determine whether detention violates procedural due process, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. Further, government detention violates substantive due process unless it is ordered in a criminal proceeding with adequate procedural protections, or in non-punitive circumstances "where a special justification ... outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas* at 690.

a. Petitioner's Private Interest

First, Petitioner's "private interest … affected by the official action is the most elemental of liberty interests—the interest in being free from physical detention." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, (2004). Respondent's reliance on *Demore* and the Congress's interest in regulating immigration does little to tip the scales. "It is clear that commitment for *any* purpose constitutes a significant deprivation of liberty that requires due process protection." *Jones v. United States,* 463 U.S. 354, 361, 103 S.Ct. 3043, 77 L.Ed.2d 694 (1983) (emphasis added; internal quotation marks

omitted). At this stage in the *Mathews* calculus, the Court must consider the interest of the *erroneously* detained individual. *Carey v. Piphus,* 435 U.S. 247, 259 (1978) ("Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." *Hamdi* at 2646–47.

b. The Risk of an Erroneous Deprivation

As to the second prong of the *Mathews v. Eldridge* balancing test, the Court should find that the risk of erroneous deprivation is particularly high here. The purpose of requiring an opinion regarding the completion of purpose of parole (8 U.S.C. § 1182(d)(5)(A)) and written notice prior to the decision to detain a noncitizen (8 C.F.R. § 212.5(e)) who was previously paroled into the United States is to prevent an erroneous deprivation of liberty. This purpose is illustrated clearly here, as Petitioner has raised significant and supported legal arguments against Respondents' detention of Petitioner under §1225(b). Further, Respondents have presented no evidence in the record suggesting that Petitioner's purpose for parole has been accomplished, that there was any analysis or thought put into his detention, that he is a flight risk or a danger to his community; only that he is subject to mandatory detention. *See id.*

Petitioner was granted parole based on his individualized facts and circumstances; he was granted permission to lawfully enter the United States on a temporary basis and given humanitarian parole while the pursued his applications for asylum. Respondents, *at that time*, had the right to detain Petitioner under 8 U.S.C. § 1225(b), but chose not to based on Petitioner's specific circumstances. And, "when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it." *Loper Bright Ent*., 603 U.S. at 413.

In Petitioner's case, immigration officials, vested with authority delegated by Congress to the Attorney General and DHS, first determined that Petitioner should be paroled into the United States, not subject to mandatory detention, and placed into standard removal proceedings. *See* Exhibit A, attached. The unilateral decision by the ICE on February 10, 2026, and without notice to Petitioner, chose to apply a different statutory framework to Petitioner's circumstances despite earlier determining otherwise now leaves his liberty interest at risk. Petitioner contends that the Respondents may not now extend the bounds of their authority to apply § 1225(b) against him, and this Court must ensure proper application of the laws against Petitioner.

c. The Government's Interest

The final *Mathews* factor concerns the United States' interest in the proceedings, as well as any financial or administrative burdens associated with permissible alternatives. *Mathews*, 424 U.S. at 335. Petitioner recognizes that the United States has an interest in meaningful immigration laws that advance its stated policies. However, the United States has an equal and countervailing interest in consistent application of its laws and ensuring that those laws are applied under the proper means. It is not appropriate to utilize the "wrong" statute against any person to ensure their continued detention. Respondents may not choose unilaterally when and how to apply duly enacted laws.

The Government's interests in detaining noncitizens are (1) ensuring that noncitizens do not abscond and (2) ensuring they do not commit crimes. *Zadvydas,* 533 U.S. at 690, 121 S.Ct. 2491. Respondents have provided no evidence or argument that Petitioner is either a flight risk or a danger, and the record would indicate that he is neither: he has no criminal record whatsoever, and he has attended his ICE and Immigration Court appointments when required. Respondents cannot show that their interest in detaining Petitioner without a bond hearing outweighs

Petitioner's liberty interests; nor can they show that the effort and cost of providing Petitioner with procedural safeguards is burdensome.

Accordingly, all *Mathews* factors weigh heavily in support of Petitioner.

VII. CONCLUSION

Petitioner respectfully requests that this Honorable Court grant this petition for writ of habeas corpus because he is detained in violation of federal law and/or the Constitution. Petitioner further requests this court order his immediate release from custody.

Respectfully Submitted,

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