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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

ALEJANDRO JOSE PETIT POLEO,

Petitioner,

vs.

PAMELA BONDI, U.S. Attorney General;
KRISTI NOEM, Secretary U.S. Department
of Homeland Security; RUBEN LEYVA,
Acting Field Office Director, Salt Lake City
Enforcement and Removal Operations, U.S.
Immigration and Customs Enforcement;
BRIAN HENKE, Field Office Director for
Las Vegas/Salt Lake City; and RYAN
ARBON, Weber County Sheriff,

Respondents.

Case No. 1:26-cv-00032-HCN

**FEDERAL RESPONDENTS'
SUPPLEMENTAL BRIEFING
REGARDING PETITION FOR WRIT
OF HABEAS CORPUS**

District Judge Howard C. Nielson, Jr.

1. INTRODUCTION

In response to the Court's Order for supplemental briefing issued on March 20, 2026 (Dkt. 13), the Federal Respondents¹ submit this Supplemental Briefing Regarding Petition for Writ of Habeas Corpus in relation to the petition filed by Alejandro Jose Petit Poleo (Mr. Petit Poleo).

¹ The Federal Respondents include all respondents other than RYAN ARBON, Weber County Sheriff.

In responding to the two issues identified by the Court, Federal Respondents will also advise the Court and Mr. Petit Poleo's counsel of additional (recently acquired) factual information relating to Mr. Petit Poleo's temporary "parole," which was officially terminated months ago.

2. ADDITIONAL FACTUAL AND PROCEDURAL BACKGROUND

2.1 Mr. Petit Poleo was "an arriving alien" who was "paroled" under 8 U.S.C. § 1182(d)(5)(A) (initially) until February 11, 2026.

Mr. Petit Poleo is a Venezuelan national who is not a citizen of the United States. (Dkt. 1 [Writ Petition] at 3 ¶ 15). Over two years ago, on February 14, 2024, he presented himself at the Brownsville, Texas port of entry seeking admission to the United States. (Dkt. 1 at 2 ¶ 6; Ex. 1 [Notice to Appear] at 1 ¶ 3). This made him an "arriving alien," which is defined as "an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry" 8 C.F.R. § 1.2. When he presented himself, he did not have a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act (INA). Therefore, he was "inadmissible" to the United States. 8 U.S.C. § 1182(a)(7)(A)(i)(I).

In fact, Mr. Petit Poleo's immigration documentation confirms that he was an "inadmissible" "arriving alien." On the very first page of his February 13, 2024 Notice to Appear, the box is clearly marked identifying that "[he was] an arriving alien." (Ex. 1 [Notice to Appear] at 1) (stating, "You are an arriving alien."). On the same page, just under the checked box section, it reflects that "On or about February 13, 2024, you [Mr. Petit Poleo] applied for admission to the United States and at the Brownsville, Texas Port of Entry." (*Id.* in Allegation Section). The immigration officer's narrative further states that "You [Mr. Petitio Poleo] 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.” (*Id.*). The Notice to Appear then states that, “On the basis of the foregoing [allegations], it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:”—and it instructs the reader to “See Continuation Page Made a Part Hereof.” (*Id.*).² On the referenced “Continuation Page,” the Notice to Appear then clearly identifies 8 U.S.C. § 1182(a)(7)(A)(i)(I) as the basis for Mr. Petit Poleo’s removal. (*Id.* at 4).³ Again, this confirms that Mr. Petit Poleo was “inadmissible” because he lacked the requisite immigration documents.

Mr. Poleo alleges that he sought asylum. But on page 1 of the Notice to Appear, the box that the immigration officer completing the form would mark to indicate that “This notice [was] being issued after an asylum officer ha[d] found that the respondent demonstrated a credible fear of persecution or torture” is notably and conspicuously unmarked. This indicates that Mr. Petit Poleo was *not* found to have a credible fear of persecution or torture and was subject to removal from the United States without further hearing or review. 8 U.S.C. § 1225(b)(1)(B)(iii)(I).⁴

² Federal Respondents acknowledge that these statements are identified as allegations by the Department of Homeland Security. But given their contemporaneous assertion by a CBP Officer, the fact that Mr. Petit Poleo signed the Notice to Appear, and the allegations’ consistency with Mr. Petit Poleo’s own narrative, Federal Respondents submit that the allegations reliably and accurately reflect the circumstances of Mr. Petit Poleo’s entry into the United States.

³ Section 212 of the Immigration and Nationality Act is codified as 8 U.S.C. § 1182.

⁴ There is some debate regarding the reach and scope of section 1225 away from the border in the interior of the United States. Compare *Buenrostro-Mendez v. Bondi*, 166 F. 4th 494, 498, 500-02, 505-07 (5th Cir. 2026) (applying section 1225 to aliens who were not lawfully admitted to the United States regardless of where, how, or when they entered the United States) and *Avila v. Bondi*, --- F.4th --- 2026 WL 819258, Case No. 25-3248 (8th Cir. Mar. 25, 2026) (accord) with e.g., *Tanchez v. Noem*, No. 2:25-CV-1150, 2026 WL 125184, at *1 (D. Utah Jan. 16, 2026) (contrary).

But section 1225 unquestionably covers “Inspection by immigration officers [at the border], [and the] expedited removal of inadmissible arriving aliens” like Mr. Petit Poleo. 8 U.S.C. § 1225 (title).

It is also clear that under 8 U.S.C. § 1225(b)(1)(B)(iii)(I), if an “arriving alien” is interviewed by an immigration officer at or near the border about an asylum claim, and “if the [interviewing] officer determines that [the] alien does not have a credible fear of persecution, the officer *shall order the alien removed from the United States without further hearing or review.*” (*Id.*) (emphasis added). In such circumstances, absent “parole,” removal is mandatory.

Rather, as an inadmissible “arriving alien,” Mr. Petit Poleo was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). He was thus released the only way he could be released—by being “paroled” under 8 U.S.C. § 1182(d)(5)’s “humanitarian parole” provision. Indeed, Section 1182(d)(5) is the only statutory basis to release an alien, like Mr. Petit Poleo, who was and remains subject to mandatory detention under Section 1225(b)(2)(A)—especially when he is apprehended at the border. *See Jennings v. Rodriguez*, 583 U.S. 281, 283 (2018) (“There is also a specific provision authorizing temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A) . . . That express exception implies that *there are no other circumstances* under which aliens detained under § 1225(b) may be released.”) (emphasis added). Aliens, like Mr. Petit Poleo, who are paroled under section 1182(d)(5)(A) *shall not* be deemed “admitted” to the United States. 8 U.S.C. § 1101(a)(13)(B).⁵

Further, in his February 13, 2024 application for employment authorization, Mr. Poleo attached a copy of his I-94 record that confirms that he was, in fact, “paroled” under 8 U.S.C. § 1182(d)(5)(A). That I-94 record references a—somewhat inaptly worded—“class of admission” with a “DT” code. (*See* Ex. 2 [App’n] at 10). However, this “DT” code refers to humanitarian parole under section 1182(d)(5)(A).⁶ The “Admit Until Date,” which was the termination date of Mr. Petit Poleo’s parole under section 1182(d)(5)(A), was listed as “02/11/2026.” (*Id.*).

Notably, two years later, Mr. Petit Poleo still does not appear to have a pending asylum claim.

⁵ “An alien who is paroled under section 1182(d)(5) of this title . . . shall not be considered to have been admitted.” 8 U.S.C. § 1101(a)(13)(B).

⁶ *See FAQs on the Effect of Changes to Parole and Temporary Protected Status (TPS) for SAVE Agencies, Non-Categorical Parole, USCIS*, “What does ‘Non-Categorical Parole’ mean?” available at: <https://www.uscis.gov/save/current-user-agencies/guidance/faqs-on-the-effect-of-changes-to-parole-and-temporary-protected-status-tps-for-save-agencies#:~:text=Aliens%20who%20are%20outside%20of%20the%20United,parole%20related%20COAs%20may%20have%20been%20used> (last visited March 23, 2026). These FAQs explain that

2.2 In April 2025, Mr. Petit Poleo's parole was terminated.

In April 2025, the Department of Homeland Security (DHS) affirmatively terminated Mr. Petit Poleo's parole prior to its initial expiration date. As a result, his I-94 admission record was automatically updated to reflect an earlier parole termination of April 18, 2025. (Ex. 3 [I-94 Record]). USCIS subsequently revoked Mr. Petit Poleo's work authorization with proper written notice. (See Ex. 4 [Notice of Intent to Revoke] and Ex. 5 [Notice of Revocation of Parole-Based Employment Authorization]) (notifying Mr. Petit Poleo that his parole status was revoked).⁷

More specifically, on April 30, 2025, DHS sent Mr. Petit Poleo a "Notice of Intent to Revoke Employment Authorization." (Ex. 4 [Notice of Intent to Revoke]). This Notice references an earlier email that DHS sent to Mr. Petit Poleo "giving [him] notice that the parole that granted [him] access to the United States would be terminated 7 days after the date of the notice." (*Id.* ¶ 1). The same Notice reiterated that his "parole ha[d] been terminated" and that he no longer qualified for employment authorization as a parolee under 8 C.F.R. [§] 274a.12(c)(11)." (*Id.* ¶ 2). Section 274a.12(c)(11) specifically applies to aliens who have been "paroled into the United States temporarily for urgent humanitarian reasons or significant public benefit pursuant to section 212(d)(5) of the Act"—which is codified as 8 U.S.C. § 1182(d)(5). Consistently, in the next

"Aliens who are outside of the United States may request to be paroled into the United States based on urgent humanitarian reasons or a significant public benefit. These aliens are not paroled into the United States under a categorical parole program or process. **Often, the Class of Admission (COA) for these aliens is "DT" though other parole related COAs may have been used.**" (*Id.*) (bold added).

⁷ "Parole" issued under 8 U.S.C. § 1182(d)(5)(A) is revocable without any showing of "changed circumstances." The statute clearly states that "such parole of such alien *shall not be regarded as an admission of the alien* and 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 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). Notice of revocation of an alien's parole may be given in writing. 8 C.F.R. 212.5(e)(2)(i).

paragraph, the Notice informed Mr. Petit Poleo that his parole-based employment authorization would be revoked unless he submitted “countervailing evidence that [he] remain[ed] paroled into the United States under section 212(d)(5)(A) of the INA[—that is, 8 U.S.C. § 1182(d)(5)(A)]. (*Id.* ¶ 3). The Notice also provided “an additional reminder” to Mr. Petit Poleo that “[his] status in the United States will be unlawful after [his] parole is terminated, unless [he has] obtained some other status.” (*Id.* ¶ 7). He was further informed that “It [was] in [his] best interest to avoid deportation and leave the United States of his own accord.” (*Id.* ¶ 8). He chose not to self-deport.

Further, on May 15, 2025, United States Citizenship and Immigration Services (USCIS) also sent Mr. Petit Poleo a Notice of Revocation of Parole-Based Employment Authorization. (Ex. 5 [Notice of Revocation]). In that Notice of Revocation, USCIS reiterated that Mr. Petit Poleo’s “employment authorization” was granted under 8 C.F.R. § 271.12(c)(11) based on his having been “paroled” into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA)—meaning under 8 U.S.C. § 1182(d)(5). (Ex. 5 [Notice of Revocation] ¶¶ 1-3).⁸ He was also informed that “DHS records indicate[d] that [his] parole ha[d] expired or been terminated.” (*Id.* ¶ 4). The Notice also stated that he had not submitted any evidence that his parole had been renewed or extended. (*Id.*). Therefore, his employment authorization was also being terminated.

2.3 Mr. Poleo was detained by ICE *after* he was notified that his “parole” was terminated, and *after* his “parole” would have otherwise expired.

On March 3, 2026, Mr. Poleo committed an unspecified “traffic code offense” and was then detained by ICE. (Dkt. 1 at 2 ¶ 8). ICE detained him for being an “applicant for admission”

⁸ The Notice of Revocation states that, USCIS “[g]enerally” grants employment authorization to immigrants in “a valid period of parole,” but that Mr. Petit Poleo’s parole had expired or terminated. The United States does not know why the Notice did not specifically state that he had formerly been paroled under 8 U.S.C. § 1182(d)(5)(A).

who is “not clearly and beyond a doubt entitled to be admitted to the United States.” 8 U.S.C. §§ 1225(b)(2)(A) and 1182(a)(7)(A)(i)(I). (*See* Ex. 1 [Notice to Appear] at 1, 4). His detention occurred after his parole was revoked in April 2025.⁹ His detention also occurred even after his parole was initially set to expire on February 11, 2026—before it was terminated earlier.¹⁰ Therefore, there is no question that Mr. Petit Poleo was not on parole when ICE detained him.

3. SUPPLEMENTAL LEGAL ARGUMENT

3.1 An alien who has presented himself at a port of entry and been paroled into the United States after requesting asylum is an “applicant for admission” within the meaning of 8 U.S.C. § 1225(a)(1).

The Court seeks supplemental briefing on whether an alien, like Mr. Petit Poleo, who has presented himself at a port of entry and been paroled into the United States after requesting asylum is an “applicant for admission” within the meaning of 8 U.S.C. § 1225(a)(1). More specifically, the Court asks for more briefing on whether such a person constitutes “[a]n alien present in the United States who has not been admitted or who arrives in the United States” under Section 1225(a)(1)—in light of the definition of “admitted” provided in 8 U.S.C. § 1101(a)(13)(A), which defines “admitted” as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” The answer is yes. Under such circumstances, Mr. Petit Poleo remains an “applicant for admission” within the meaning of 8 U.S.C. § 1225(a)(1).

There is no dispute that Mr. Petit Poleo was “an applicant for admission” when he presented himself at the port of entry at the United States border over two years ago. He came to the port of

⁹ (Ex. 3 [I-94 Record] (indicating that his parole would expire on April 18, 2025); and Ex. 4 [Notice of Intent to Revoke] ¶¶ 1-3, 7, 8; Ex. 5 [Notice of Revocation] ¶¶ 1-4 (noting termination or revocation of his parole)).

¹⁰ (Ex. 2 [Employment App’n] at 10) (listing expiration date as 02/11/2026).

entry and “applied for admission to the United States.” (Dkt. 1 at 2 ¶ 6; Ex. 1 [Notice to Appear] at 1 ¶ 3). Section 1225(b)(1) states that, “An alien present in the United States who has not been admitted or[, like Mr. Petit Poleo,] who arrives in the United States (whether or not at a designated port of arrival . . .) shall be deemed for purposes of this chapter *an applicant for admission.*” 8 U.S.C. § 1225(a)(1) (emphasis added). Mr. Petit Poleo arrived at a designated port of arrival. (*Id.*) And when he arrived there, he had “not been admitted” to the United States. Indeed, the very reason he came to the port of arrival was to seek or “apply for” admission. Therefore, he was clearly “an applicant for admission” under Section 1225(a)(1).

As demonstrated above, however, after Mr. Petit Poleo arrived at the designated port of arrival and was deemed “inadmissible,” he was “paroled” into the United States under 8 U.S.C. § 1182(d)(5)(A). The question becomes then, whether by virtue of his parole into the United States, he became “admitted” to the United States such that he was no longer an “applicant for admission.”

The answer is no. Under 8 U.S.C. § 1101(a)(13)(A), the term “admitted” is defined as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” *Id.* On its face, this provision might superficially seem to raise a question regarding whether entry into the United States through “parole” could constitute such a “lawful entry” of an alien “after inspection and authorization by an immigration officer.” But the next subsection of the statute ends any confusion on this point. Section 1101(a)(13)(B) clarifies that “[a]n alien who is paroled under section 1182(d)(5) of this title . . . *shall not be considered to have been admitted.*” *Id.* This subsection is unambiguous. Entering into the United States on “parole” under section 1182(d)(5) did not, and could not, transform Mr. Petit Poleo into an admitted alien.

This understanding is consistent with the language of section 1182(d)(5)(A) itself. This provision allows “[t]he Secretary of Homeland Security . . . in his discretion [to] parole into the United States *temporarily* under such conditions as 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). By the terms of the statutory provision, this type of “parole” is only for “aliens applying for admission”—*i.e.*, “applicants for admission,” like Mr. Petit Poleo. But even more important, the very next clause in the same sentence clarifies, with an important coordinating conjunction (namely, the word “but”), that “such parole of such alien *shall not be regarded as an admission of the alien . . .*” *Id.* (emphasis added). The statute could not be clearer on this point. Mr. Petit Poleo’s discretionary, temporary “parole” could not be regarded as an “admission” and did not make him an “admitted” alien.

Further, the statutory provision goes on to explain that “when[, as here,] 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 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). This statutory language unambiguously establishes that Mr. Petit Poleo’s parole did not constitute an “admission” and that once his parole expired or was terminated by DHS—as it was in this case—he was to be treated in the same manner as “any other applicant for admission.” Because his “parole” was terminated by DHS before his arrest, and would otherwise have expired before his arrest, Mr. Petit Poleo remains “an applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

Indeed, other immigration regulations confirm that Mr. Petit Poleo’s “parole” under Section 1182(d)(5)(A) was both properly terminated in April 2025 and otherwise would have expired by operation of law by February 11, 2026. Title 8 C.F.R. § 212.5 is the regulation dealing with “Parole of aliens in the United States,” and section 212.5(e) specifically deals with the “Termination of parole.” *Id.* Under Section 212.5(e)(1)(ii), “Parole shall be automatically terminated without written notice . . . at the expiration of the time for which parole was authorized. This means that, at the latest, Mr. Petit Poleo’s parole terminated on February 11, 2026—weeks before he was detained by ICE. (*See supra* § 2.1; Ex. 2 [App’n] at 10). In addition, section 212.5(e)(2)(i) provides that notice of revocation may be given in writing, leaving the alien in the same position he was in before he was paroled.¹¹ Such written notice was given to Mr. Petit Poleo in April 2025.¹² Thus, his parole was terminated by April 18, 2025, (Ex. 3 [I-98 Record]), and he remained “an applicant for admission” and “continue[d] 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).

That meant he was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

3.2 In addition to 8 U.S.C. § 1225(b)(2)(A), 8 C.F.R. §§ 212.5(e)(1),(2) and other regulations also justify Mr. Petit Poleo’s detention at this time, absent a bond hearing and absent any identified change in circumstances after his parole, and pending disposition of his removal proceedings.

The Court also requests supplemental briefing regarding whether any statutory or regulatory provisions other than 8 U.S.C. § 1225(b)(2)(A) justify Mr. Petit Poleo’s detention

¹¹ *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.* 8 C.F.R. § 2.12.5(e)(2)(i) (emphasis added).

¹² (*See supra* § 2.2; Ex. 4 [Notice of Intent to Revoke] and Ex. 5 [Notice of Revocation]).

pending his removal proceedings—absent a bond hearing and absent any identified “change in circumstances” after his parole. The answer is yes.

As explained above, 8 U.S.C. § 1225(a)(1) establishes that Mr. Petit Poleo was “an applicant for admission” when he presented himself at the port of entry two years ago. He was paroled under 8 U.S.C. § 1182(d)(5)(A), which by its own terms establishes that he was not deemed “admitted” to the United States even though he was paroled into it and that on revocation of his parole he would be treated the same as any other “applicant for admission.” Because he was paroled under section 1182(d)(5), under 8 U.S.C. § 1101(a)(13)(B), he could not be deemed “admitted” to the United States. 8 U.S.C. § 1101(a)(13)(B). And under 8 C.F.R. §§ 212.5(e)(1)(ii) and (e)(2)(i), his parole was terminated or revoked in April 2025 (or at the latest, February 2026). This left him to be treated as “an applicant for admission,” which makes him subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) because he remains “not clearly and beyond a doubt entitled to be admitted to the United States.” 8 U.S.C. §§ 1225(b)(2)(A) and 1182(a)(7)(A)(i)(I).

Mr. Petit Poleo is thus not entitled to a bond hearing, and Federal Respondents need not show any “changed circumstances” before detaining him pending his removal proceedings.

4. CONCLUSION

About two years ago, Mr. Poleo showed up at the border without the required immigration documents that would allow him to be lawfully “admitted” to the United States. A prior presidential administration that was less than zealous in enforcing immigration laws, temporarily and revocably “paroled” him into the United States under 8 U.S.C. § 1182(d)(5)(A). But he was never “admitted” to the United States. His “parole” has since been terminated by the current

administration (and would have otherwise expired by its own terms). Therefore, he remains subject to mandatory detention under Section 1225. And Federal Respondents need not provide him with a bond hearing or make any showing of “changed circumstances.” Therefore, the Court should deny his petition and deny his release and leave him to proceed with his removal proceedings.

DATED: March 26, 2026.

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/s/ Todd C. Bouton

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