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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Ruslan Akuev,

Petitioner,

v.

Luis Rosa Jr., Warden of Florence
Correctional Center; Pamela Bondi,
Attorney General of the United States;
Christopher McGregor, Phoenix Field
Office Director Immigration and
Customs Enforcement and Removal
Operations ("ICE/ERO"); Todd
Lyons, Acting Director of
Immigration Customs Enforcement
("ICE") U.S. Immigration and
Customs Enforcement; Markwayne
Mullin, Secretary of the Department
of Homeland Security ("DHS"); U.S.
Department of Homeland Security,

Respondents.

Case No.:

**Petition for Writ of Habeas
Corpus Pursuant to 28 U.S.C. §
2241**

INTRODUCTION

1. Petitioner Rusal Akuev is a noncitizen and resident of the United States who is harmed by Respondents' new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

2. Petitioner was paroled into the United States on March 1, 2022, four years ago, by Respondents; he then applied for asylum before the U.S. immigration authorities. Respondents commenced removal proceedings against him in immigration court, entitling him to present his asylum claim with the due process rights under 8 U.S.C. § 1229a. Yet, in a deceptive sleight of hand, Respondents now seek to detain him under an entirely separate and inapposite law, 8 U.S.C. § 1225. Respondents do so based not on Petitioner's personal circumstances or individualized facts but because of Respondents' interpretation of President Trump's whim and categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process.¹

¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),

3. As of the writing of this Petition, hundreds of federal judges, including in this District², around the country have ruled more than 4,400 times and rejected the Respondents' new draconian detention policy.³

4. Further, on December 11, 2025, the Seventh Circuit concluded the Department of Homeland Security and the U.S. Immigration and Customs Enforcement were "not likely to succeed on the merits of their argument" regarding "mandatory detention under § 1225(b)(2)(A)." *Castanon-Nava v. U.S. Dep't of Homeland Sec.*, No. 25-3050, 2025 WL3552514, at *9 (7th Cir. Dec. 11, 2025).

5. Anticipating Respondents' likely reliance on *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), that decision does not bear on

<https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donald-trump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied, "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million trials.").

² *Osmonaliev v. Cantu*, No. CV-25-03531-PHX-JJT, (D. Ariz. Dec. 16, 2025); *Sardarbek Dzhuraev v. Bondi*, No. CV-26-00438-PHX-SHD (JZB), slip op. at 7–8 (D. Ariz. Mar. 17, 2026) (holding that re-detention of a noncitizen previously released on parole or recognizance, without a pre-deprivation hearing and individualized determination, violates the Due Process Clause and warrants immediate release).

³ See Nate Raymond, Kristina Cooke & Brad Heath, *Courts Have Ruled 4,400 Times That ICE Jailed People Illegally. It Hasn't Stopped.*, Reuters (Feb. 14, 2026), <https://www.reuters.com/legal/government/courts-have-ruled-4400-times-that-ice-jailed-people-illegally-it-hasnt-stopped-2026-02-14/>.

this case. *Buenrostro-Mendez* did not involve the revocation of parole, let alone the lawfulness of terminating an existing grant of parole without compliance with 8 U.S.C. § 1182(d)(5)(A) and its implementing regulations. The petitioners there “concede[d] that they are deemed to be ‘applicants for admission,’ i.e., ‘alien[s] present within the United States who ha[ve] not been admitted,’” and the dispute concerned whether such individuals were subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) or instead eligible for bond under § 1226(a). *Id.* at *1, *4. The opinion expressly describes the case as presenting a “statutory interpretation issue” regarding the interrelation of §§ 1225 and 1226. *Id.* at *1. It did not address, much less decide, whether DHS must comply with 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e)(2)(i) before terminating a previously granted parole and reclassifying a noncitizen as subject to § 1225(b)(2).

6. By arresting and detaining Petitioner, ICE also unlawfully revoked the parole that Petitioner has enjoyed since March of 2022 without any neutral evaluation of the supposed justifications. That is unconstitutional. In recent months, multiple federal district courts have ordered ICE to release individuals that it arrested like Petitioner, who were previously granted parole or some other form of release from immigration custody, and to not re-arrest them without first providing a pre-detention bond hearing. *See F.B. v. Noem*, No. CV-25-04271-PHX-JJT (JZB), 2025 WL 3628652 (D. Ariz. Dec. 4, 2025) (ordering immediate release after finding that DHS’s re-detention of a paroled asylum

applicant without any pre-deprivation process or individualized findings violated the Due Process Clause); *Y-Z-L-H v. Bostock*, --- F. Supp. 3d ----, 2025 WL 1898025, at *9–12 (D. Or. Apr. 17, 2025) (holding DHS’s termination of parole by mass email without the findings required by 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e)(2)(i) was arbitrary and capricious under the APA and ordering release); *Rodriguez Orellana v. Francis*, No. 1:25-cv-04212, 2025 WL 1755685, at *6–8 (E.D.N.Y. July 14, 2025) (granting habeas relief where DHS revoked humanitarian parole and detained petitioner without notice or a reasoned explanation, finding the termination unlawful under the APA); *Mata Velasquez v. Kurzdorfer*, No. 1:25-cv-00493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025) (found that “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.’” Where the petitioner received a summary letter informing him of the revocation, “there [was] no indication that—as required by the statute and regulations—an official with authority made a determination specific to” the petitioner and therefore the petitioner’s rights were violated under the Parole Statute. *Id*; see also *Castellon v. Kaiser*, 2025 WL 2373425, at *5-6 (E.D. Cal. Aug. 14, 2025).

7. Respondents’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Respondents’ new policies are thus not only contrary to law, but arbitrary and capricious in violation of the Administrative Procedure Act (APA). They were also adopted without

complying with the APA's procedural requirements.

8. Nevertheless, DHS and DOJ continue to violate the law and detain people without due process in violation of their statutory, regulatory, and constitutional rights.

9. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus and order Respondents to immediately release Petitioner from custody.

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

11. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

13. Venue is proper because Petitioner is in Respondents' custody in Florence, Arizona. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' custody. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

15. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

17. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

18. Petitioner is a 41-year-old citizen of Russia. Petitioner is present within the state of Arizona and detained at the Florence Correctional Center as of the time of the filing of this petition.

19. Respondent Luis Rosa Jr., Warden of Florence Correctional Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

20. Respondent Christopher McGregor is the Field Office Director for the

Phoenix Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Phoenix Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

Respondent McGregor is a legal custodian of Petitioner.

21. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Christopher McGregor and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

22. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

23. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

24. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

25. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

26. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

27. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2).

28. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231 (a)-(b).

29. This case concerns the detention provisions at §1226(a) and § 1225(b)(2).

30. The detention provisions at §1226(a) and §1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

31. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained

under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

32. For decades, this interpretation has governed the administration of custody. Noncitizens who were not deemed "arriving aliens" at the time of inspection, or who were released into the United States after inspection and issuance of an NTA, were treated as detained under § 1226. *See* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (explaining that § 1226(a) "restates" the detention authority previously codified at 8 U.S.C. § 1252(a) (1994)).

33. On July 8, 2025, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice.

34. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). *Id.* The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

35. It is estimated that this novel interpretation of the INA would require a person's detention any time that immigration authorities arrest one of the millions of immigrants residing in the United States who entered without inspection and who has not since been admitted or paroled.⁴

36. Nationwide, pursuant to its July 8, 2025, policy, Respondents are now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A).

37. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

38. While some IJs in other immigration courts have continued to grant bond to people like Petitioner, consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal. *See* 8 C.F.R. § 1003.19(i)(2).

⁴ Maria Sacchetti & Carol D. Leonnig, *ICE declares millions of undocumented immigrants ineligible for bond hearings*, Washington Post (July 14, 2025), <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/> [<https://perma.cc/5ZTR-EN4B>].

39. The "auto-stay" provision of 8 C.F.R. § 1003.19(i)(2) prevents noncitizens from posting bond and being released even in jurisdictions where IJs have rejected DHS's unlawful reinterpretation of §1225(b)(2) and have granted bond.

40. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

41. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Cerritos Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW), (D. Ariz. Oct. 3, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025).

42. In a leading decision addressing detention following parole revocation, *Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *3, *10–12 (D. Or. July 9, 2025), the United States District Court for the District of Oregon analyzed the statutory and regulatory framework governing immigration parole and its revocation. The court explained that 8 U.S.C. § 1182(d)(5)(A), titled "Temporary admission of nonimmigrants," authorizes the Secretary of Homeland Security, in his

discretion and on a case-by-case basis, to parole into the United States noncitizens applying for admission for urgent humanitarian reasons or significant public benefit.

43. Section 1182(d)(5)(A) expressly provides that parole “shall not be regarded as an admission,” and that when, “in the opinion of the Secretary of Homeland Security,” the purposes of parole have been served, the noncitizen “shall forthwith return or be returned to the custody from which he was paroled,” after which his case proceeds as that of any other applicant for admission.

44. The *Y-Z-H-L* court held that parole revocations are subject to the requirements of the Administrative Procedure Act (“APA”), and therefore must not be arbitrary, capricious, or an abuse of discretion. 2025 WL 1898025, at *10. The court further explained that agency action is arbitrary and capricious where the agency fails to make a reasoned determination or fails to “articulate[] a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Id.* The court emphasized that both the statute and implementing regulations require individualized, case-by-case determinations regarding parole and its termination. *Id.* at 12.

45. This District Court has reached a similar conclusion in several cases: *F.B. v. Noem*, No. CV-25-04271-PHX-JJT (JZB), 2025 WL 3628652 (D. Ariz. Dec. 4, 2025) (ordering immediate release after finding that DHS’s re-detention of a paroled asylum applicant without any pre-deprivation process or individualized

findings violated the Due Process Clause); *Osmonaliev v. Cantu*, No. CV-25-03531-PHX- JJT (D. Ariz. Dec. 16, 2025) (granting habeas relief and ordering immediate release where DHS revoked parole without adequate notice, individualized findings, or a meaningful opportunity to be heard, and unlawfully treated petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2) rather than discretionary detention under § 1226(a)); *Dzhuraev*, slip op. at 7–8 (holding that the government’s re-detention of a noncitizen following release on parole or recognizance, without individualized process, violates due process under *Mathews v. Eldridge*).

46. Other District Courts have also reached similar conclusions: *Rodriguez Orellana v. Francis*, No. 1:25-cv-04212, 2025 WL 1755685, at *6–8 (E.D.N.Y. July 14, 2025) (granting habeas relief where DHS revoked humanitarian parole and detained petitioner without notice or a reasoned explanation, finding the termination unlawful under the APA); *Mata Velasquez v. Kurzdorfer*, No. 1:25-cv-00493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025) (found that “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 [non-citizen] received parole.’” Where the petitioner received a summary letter informing him of the revocation, “there [was] no indication that—as required by the statute and regulations—an official with authority made a determination specific to” the petitioner and therefore the petitioner’s

rights were violated under the Parole Statute. *Id*; see also *Castellon v. Kaiser*, 2025 WL 2373425, at *5-6 (E.D. Cal. Aug. 14, 2025).

47. Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. See *Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

48. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id*. "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Id*. 22.

49. This reasoning applies with equal, if not greater, force to people released from civil immigration detention at the border, like Petitioner. After all, noncitizens living in the United States have a protected liberty interest in their ongoing freedom from confinement. See *Zadvydas*, 533 U.S. at 690. And "[g]iven the civil context [of immigration detention], [the] liberty interest [of

noncitizens released from custody] is arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

FACTUAL BACKGROUND

50. Petitioner is a citizen and national of Russia born on 

51. 


52. Fearing for his life, he sought protection in the United States.

53. On or about February 28, 2022, Petitioner came to the Otay Mesa, California port of entry to seek asylum. Respondents paroled him into the United States on March 1, 2022, based on Petitioner’s individual facts and circumstances, under 8 U.S.C. § 1182(d)(5) and released him from custody pursuant to the same statute.

54. Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a in Los Angeles, CA and filed his Notice to Appear.

55. Petitioner timely applied for asylum with the Los Angeles Immigration Court.

56. Respondents alleged that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and commanded that Petitioner appear for a hearing in the immigration court in Los Angeles, CA on January 23, 2024.

57. On or about August 13, 2025, Petitioner was detained during his routine ICE check-in appointment in California.

58. DHS then transported Petitioner to the Florence Correctional Center in

Arizona.

59. On February 10, 2026, IJ granted him asylum. Ex. A.

60. Shortly after, Respondents filed an appeal to the BIA.

61. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

62. A bond hearing in the immigration court or appeal to the Board of Immigration Appeals (BIA) is futile. DHS's new policy was issued "in coordination with" DOJ. EOIR, the immigration court system, is a component agency of DOJ. Further, as noted, a recent BIA decision held that persons like Petitioner are subject to mandatory detention as applicants for admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process Procedural Due Process

63. Petitioner restates and realleges all paragraphs as if fully set forth here.

64. Petitioner's detention by DHS violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

65. Immigration detention violates due process if it is not reasonably related to the purpose of ensuring a noncitizen's removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92, 699-700 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where removal is not reasonably foreseeable,

detention cannot be reasonably related to the purpose of effectuating removal and is unlawful. *See id.* at 699-700.

66. The Supreme Court has also established that noncitizens in deportation or removal proceedings are just as entitled to due process protections as anyone else. *See Zadvydas*, 533 U.S. at 690 (2001) (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment’s Due Process Clause forbids the Government to ‘depriv[e]’ any “person . . . of . . . liberty . . . without due process of law.””).

67. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

68. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

69. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ revocation of Petitioner’s release violates his right to procedural due process.

COUNT II

Violation of Substantive Due Process

70. Petitioner restates and realleges all paragraphs as if fully set forth here.

71. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

72. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

73. Petitioner is not a flight risk or danger to the community. Respondents’ detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

74. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas and facilitate DHS's new draconian expedited removal scheme. *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

COUNT III

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Not in Accordance with Law and in Excess of Statutory Authority
Unlawful Detention**

75. Petitioner restates and realleges all paragraphs as if fully set forth here.

76. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

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

78. Federal regulations specify that where parole has been granted under 8 U.S.C. § 1182(d)(5), it may terminate on its expiration date, when a noncitizen departs the U.S., or “upon the accomplishment of the purpose for which parole was authorized.” 8 C.F.R. §§ 212.5(e)(1), (2)(i). If none of these conditions are met, parole may only be terminated following an individualized determination that “neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen] in the United States.” 8 C.F.R. § 212.5(e)(2)(i).

79. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts

found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

80. By categorically revoking Petitioner’s parole and detaining Petitioner without consideration of Petitioner’s individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

81. Respondents have made no finding that Petitioner is a danger to the community.

82. Respondents have made no finding that Petitioner is a flight risk.

83. By detaining the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to parole Petitioner into the United States, on information and belief, there have been no changes to Petitioner’s facts or circumstances that support detention.

84. Respondents have already considered Petitioner’s facts and circumstances and determined that Petitioner was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his parole.

COUNT IV

Violation of Regulations/*Accardi* Doctrine

85. Petitioner restates and realleges all paragraphs as if fully set forth here.

86. Petitioner's supervised release was revoked in violation of the substantive and procedural requirements of 8 C.F.R. § 241.4(l)(1) and was revoked by an individual who lacked the authority to do so under that regulation.

87. In the *United States v. Accardi*, the Supreme Court held that when the government promulgates regulations “with the force and effect of law,” agencies are bound to follow their own “existing valid regulations.” 347 U.S. 266, 268 (1954). This also applies to agencies own internal manuals. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974). To prove an *Accardi* claim, and a violation of Due Process, the claimant must also “demonstrate prejudice resulting from the violation.” *Am. Farm Liens v. Black Ball Freight Serv.*, 397 U.S. 532, 538-39 (1970). But prejudice may be presumed when “compliance with the regulation is mandated by the Constitution” and “where an entire procedural framework, designed to insure the fair processing of an action affecting an individual is created but then not followed by an agency.” *Delgado-Corea v. Immigr. & Naturalization Serv.*, 804 F.2d 261, 263 (4th Cir. 1986).

88. The revocation of Petitioner’s parole and resulting re-detention failed to comply with the mandatory procedural protections set forth in 8 C.F.R. § 241.4(l). That regulation requires that “[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release,” and that the individual “will be afforded an initial informal interview promptly after his or

her return to Service custody to afford the alien an opportunity to respond.” 8 C.F.R. § 241.4(l)(1).

89. This Court has already addressed the legal consequences of Immigration and Customs Enforcement’s failure to provide adequate procedural safeguards when revoking parole and re-detaining a noncitizen. *See Dzhuraev*, slip op. at 5–7.

90. In *Dzhuraev*, this Court rejected the Government’s position that no additional process is required upon re-detention, holding instead that due process requires an individualized determination and procedural safeguards before a noncitizen may be deprived of liberty. *Id.* at 5–7. The Court concluded that the absence of a hearing or other procedural protections creates a high risk of erroneous deprivation of liberty in violation of the Due Process Clause. *Id.* at 5–6.

91. The same defect occurred here. Petitioner’s parole under 8 U.S.C. § 1182(d)(5)(A) was effectively revoked without contemporaneous written notice of the reasons for revocation and without a prompt opportunity to respond before a properly authorized official. As in *Dzhuraev*, such action results in an unlawful deprivation of liberty because it deprives Petitioner of any meaningful ability to contest his detention. *Id.* at 5–7.

92. Moreover, as courts in this District have recognized, once a noncitizen is released from custody, he possesses a protected liberty interest, and the government must comply with the requirements of due process before revoking

that liberty. *See Osmonaliev*, slip op. at 9–10 ; *F.B.*, slip op. at 2–3.

Respondents’ failure to adhere to these mandatory procedural protections renders Petitioner’s detention unlawful.

93. Because Respondents revoked Petitioner’s parole and effectuated his re-detention in contravention of binding federal regulations, their actions violate the *Accardi* doctrine and the Due Process Clause of the Fifth Amendment. An agency’s failure to adhere to regulations promulgated with the force of law renders the resulting detention unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Where, as here, the deprivation concerns physical liberty and the agency has disregarded mandatory procedural safeguards, the detention is “in violation of the Constitution or laws of the United States,” and habeas relief is warranted. 28 U.S.C. § 2241(c)(3); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020) (recognizing that “[h]abeas has traditionally been a means to secure release from unlawful detention”).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

- (3) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody.
- (5) Grant any further relief this Court deems just and proper.

Dated: March 25, 2026

/s/ Jacob Shidaev
Jacob Shidaev
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VERIFICATION

I, Jacob Shidaev, attorney for the petitioner in the above-entitled proceeding, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Petition for Writ of Habeas Corpus and, based on information and belief and records reasonably available to me, verify that its contents are true and correct to the best of my knowledge. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

Date: March 25, 2026

/s/ Jacob Shidaev
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