UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ZIYODULLO SAFAROV,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Center; ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement;

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

Case No. 1:26-cv-1429

INTRODUCTION

1. Petitioner Ziyodullo Safarov is in the physical custody of Respondents at the Denver Contract Detention Center in Aurora, CO. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have unlawfully revoked his parole.

2. On August 2, 2023, Petitioner entered the United States unlawfully, near the Calexico, CA port of entry on foot. *See Exh. A – Notice to Appear.* He was encountered and detained by U.S. Customs and Border Protection (CBP); at that time CBP was well within their right to place Petitioner in mandatory detention pursuant to 8 U.S.C. § 1225(b). CBP interviewed Petitioner to review his potential asylum claim and determine whether he presented a security risk or a risk of absconding.

3. Based on Petitioner's individualized facts and circumstances, Petitioner was 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 he pursued his application for asylum. Additionally, as

a condition of his parole he was required to check-in with Immigration and Customs Enforcement (ICE) at regular intervals.

4. Petitioner submitted a timely asylum application with U.S. Citizenship and Immigration Services (USCIS) and thereafter attended all of his ICE check-ins as required by his parole. *See Exh. B – I-589 Receipt.* At the time of filing this Petition, his asylum application remains pending and unadjudicated.

5. Additionally, Petitioner has submitted applications to adjust his status to a Legal Permanent Resident based upon his marriage, as Petitioner's wife is a United States Citizen. *See Exhs. C, D – I-130 and I-485 Receipt Notices.* Petitioner has been a law abiding and productive member of society since entering the United States.

6. So far, everything had been done precisely as Congress had directed under federal immigration laws, including 8 U.S.C. §§ 1182(d)(5). That is until Petitioner was arrested by ICE. The circumstances surrounding Petitioner's arrest are deeply troubling. Upon information and belief, Petitioner was driving a tractor trailer in Wyoming in the course of his employment as a commercial truck driver. After some time, Petitioner pulled over to the shoulder of a road. At some point after Petitioner had parked his vehicle on the shoulder, his vehicle was struck by another truck. The police arrived on scene, and Petitioner was taken to the hospital. After Petitioner was released from the hospital he was immediately taken into ICE custody.

7. When ICE took Petitioner into custody that day; in essence, ICE was revoking his parole and now 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. Rather, Petitioner's arrest in detention is solely part of the current administrations goal of deporting as many people as possible, as quickly as possible.

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

9. Petitioner's abrupt revocation of his parole and detention violates the Administrative Procedures Act (APA) and the agency's own regulations.

10. Further, Petitioner is currently in Respondents' custody pursuant to 8 U.S.C. § 1225(b) because Respondents allege that Petitioner is an arriving alien, subject to mandatory detention, despite the fact that he was previously paroled into the United States.

11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released immediately.

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Denver Contract Detention Center in Aurora, CO.

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of Colorado, the judicial district in which Petitioner is currently detained.

16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Colorado.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

19. Petitioner Ziyodullo Safarov is a national of Tajikistan who is currently in immigration detention, having had his parole unlawfully revoked without notice.

20. Respondent Robert Hagan is the Director of the Denver Field Office of ICE's Enforcement and Removal Operations division. As such, Respondent Hagan is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

21. Respondent Juan Baltazar is employed as Warden of the Denver Contract Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

22. 8 U.S.C. § 1182 provides that parole may be granted "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). After parole has been granted, the Secretary may only revoke parole, when a DHS official with authority decides either that the "the purpose for which parole was authorized" has been "accomplish[ed]" or that "neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen]" in the United States." *Id.* Several courts have found that, as in the case of grants of parole, *see Jean v. Nelson*, 472 U.S. 846, 853 (1985), Section 1182 requires an individualized case-by-case determination before parole can lawfully be revoked. *See Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1147 (D. Or. 2025) (revocation of parole was unlawful where there was "no evidence, let alone any opinion or finding" that the purpose of petitioner's parole had been served at the time of the purported termination); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025)("a decision to revoke parole 'must attend to the reasons an individual [noncitizen] received parole.' "); *Doe v. Noem*, No. 25-1384, 2025 WL 1505688, at *1 (1st Cir. May 5, 2025) (statute suggests that parole may only be terminated on case-by-case basis which "cuts against a finding that *en masse* termination is immune to judicial review."); *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2402780, at *5 (E.D.N.Y. Aug. 19, 2025) ("Respondents have admittedly failed, as the statute requires, to make a "case-by-case" determination as to the revocation of Petitioner's parole.).

23. The statute states, in pertinent part:

> The Secretary of Homeland Security may ... in his discretion 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, but *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.

8 U.S.C. § 1182(d)(5)(A) (emphasis added).

24. There is no indication that—as required by the statute and regulations—an official with authority made a determination specific to Petitioner 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." As a result, Petitioner's detention and revocation of his parole violates his rights under the statute and regulations.

25. Further, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who were already paroled into the United States and were residing in the United States at the time they were subsequently re-apprehended.

26. 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).

27. Colorado federal district courts have recently rejected the government's position that paroled aliens classified as "arriving aliens" remain subject to mandatory detention under § 1225 after extended residence in the United States. See *Rafibaev v. Noem*, 2026 WL 607559 at *5 (D. Colo. March 4, 2026) ("The Court finds that petitioner's detention is governed by § 1226(a). As the Supreme Court explained in *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), 'U.S.

immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §[ ] 1226(a).' *Id.* Here, petitioner was in the country for almost two years when he was re-detained. … Thus, he is detained pursuant to § 1226(a)").

28. As demonstrated in *Rafibaev,* Courts focus on the petitioner's current circumstances, rather than their classification at entry when determining the statute applicable to a Petitioner's detention. "[Section] 1182(d)(5)(A) does not state that a noncitizen is returned to the 'status' they held upon their parole, that they revert to status as an 'arriving alien,' or that they must be detained." 2026 WL 607559 at *4 (D. Colo. March 4, 2026).

FACTS

29. Petitioner incorporates herein by reference paragraphs 1-10, *supra.*

CLAIMS FOR RELIEF

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

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

31. Under the Under the Administrative Procedure Act, "[t]he reviewing court shall … hold unlawful and set aside agency action, findings, and conclusions found to be … not in accordance with law … [or] in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A), (C).

32. 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)). 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).

33. By categorically revoking Petitioner's parole without consideration of his individualized facts and circumstances, Respondents have violated the APA.

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

35. Respondents have made no finding that Petitioner is a flight risk because, in fact, he was arrested shortly after appearing at his final immigration court hearing.

36. By detaining Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial determination to parole him into the United States that support detention. Respondents have already considered Petitioner's facts and circumstances and determined that he 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 II
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Arbitrary & Capricious

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

38. Under the APA, a court must "hold unlawful and set aside agency action ... found to be—arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or "without observance of procedure required by law." 5 U.S.C. § 706(2). An agency action is "arbitrary and capricious if the agency has relied on factors which Congress has not intended it to

consider, 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." *Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

39. As the Supreme Court has explained, "[a]n agency may not, for example, depart from a prior policy sub silentio or simply disregard rules that are still on the books. And of course the agency must show that there are good reasons for the new policy," even though it need not convince the court of the merits of its new policy. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515, 129 S.Ct. 1800, 173 L.Ed.2d 738 (2009).

40. It is Respondents' burden to "provide [a] reasoned explanation for [their] action." *Id.* "A reasonable basis exists where the agency considered the relevant factors and articulated a rational connection between the facts found and the choices made." *Arrington v. Daniels*, 516 F.3d 1106, 1112 (9th Cir. 2008). Post hoc explanations of agency action by ... counsel cannot substitute for the agency's own articulation of the basis for its decision. Respondents, cannot provide any reason for the change to terminate Petitioner's parole, let alone a "rational basis for its decision. This unexplained inconsistency between agency actions is a reason for holding the decision to be an arbitrary and capricious change.

COUNT III
Violation of Due Process

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

42. The government may not deprive a person of life, liberty, or property 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 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

43. Petitioner has a fundamental interest in liberty and being free from official restraint.

44. The government's detention of Petitioner and revocation of his parole without meaningful notice or rationale violates his right to due process.

COUNT IV
Violation of the *Accardi* Doctrine

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

46. Under elementary principles of administrative law, as well as fundamental fairness, agencies are required to follow their own policies. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). According to well-established case law, failure to do so constitutes a violation of the *Accardi* doctrine.

47. Respondents have failed to follow their own rules, statutes, and regulations in the revocation of Petitioner's parole and in detaining Petitioner. By violating the *Accardi* doctrine, Respondents have irreparably injured Petitioner by depriving him of his liberty interests.

COUNT V
Violation of the INA

48. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who have already been paroled into the United States. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

50. Courts within this District agree with Petitioner. See *Rafibaev v. Noem*, 2026 WL 607559 at *5 (D. Colo. March 4, 2026) ("The Court finds that petitioner's detention is governed

by § 1226(a). As the Supreme Court explained in *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), 'U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §[ ] 1226(a).' *Id.* Here, petitioner was in the country for almost two years when he was re-detained. … Thus, he is detained pursuant to § 1226(a)").

51. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from transferring Petitioner out of the jurisdiction of the District of Colorado;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents **immediately release Petitioner;**

e. Declare that Petitioner's detention and revocation of his parole as unlawful; and

f. Grant any other and further relief that this Court deems just and proper.

Respectfully Submitted,

Date: April 3, 2026

s/Christopher M. Casazza
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