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

Mehrad Asadieidivand,

Petitioner,

v.

Ghulam Rasool, ICE Enforcement and
Removal Operations Phoenix Supervisory
Detention and Deportation Officer, et al.,

Respondents.

No. 25-cv-02475-PHX-KML-JFM

**SUPPLEMENTAL BRIEFING IN
RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

Respondents Ghulam Rasool, ICE Enforcement and Removal Operations Phoenix Supervisory Detention and Deportation Officer, Justin Smith, ICE Enforcement and Removal Operations Phoenix Field Office Director, John Cantu, ICE Enforcement and Removal Operations Phoenix Field Office Director, Marcos Charles, ICE Acting Executive Associate Director, Pamela J. Bondi, Attorney General of the United States and Kristi Noem, Secretary of the Department of Homeland Security, by and through counsel, file this supplemental response to Petitioner's Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Doc. 1).

Pursuant to this court's August 11, 2025 Order (Doc. 18), the parties were instructed to file supplemental briefing addressing eight (8) specific topics which are addressed as follows:

1 **I. Is the determination whether to grant parole meaningfully different from the**
2 **determination whether to grant bond?**

3 The determination whether to grant parole is meaningfully different from the
4 determination whether to grant bond as they have different legal standards and different
5 processes.

6 Section 235(b) of the INA provides authority to detain aliens arriving in the United
7 States. Arriving aliens who are placed in expedited removal proceedings pursuant to INA
8 § 235(b)(1) require detention until their credible fear interview and, if found to have no
9 credible fear, until removal. INA §§ 235(b)(1)(B)(ii), (iii)(IV); *Jennings v. Rodriguez*, 583
10 U.S. 281, 298 (2018); *United States v. Thuraissigiam*, 591 U.S. 103, 111 (2020).

11 The only exception permitting release of aliens detained under INA § 235(b) is the
12 parole authority provided under INA § 212(d)(5)(A) [8 U.S.C. § 1182(d)(5)(A)];
13 *Thuraissigiam*, 591 U.S. at 111 n.8. The Secretary of Homeland Security has discretionary
14 authority to grant parole to applicants for admission on a case-by-case basis for urgent
15 humanitarian reasons or significant public benefit. INA § 212(d)(5)(A) [8 U.S.C. §
16 1182(d)(5)(A)]; 8 C.F.R. §§ 212.5(b); 235.3(b)(2)(iii), (b)(4)(ii). Moreover, those aliens
17 considered for parole must present “neither a security risk nor a risk of absconding”
18 8 C.F.R. § 212.5(b).

19 Section 236(a) [8 U.S.C. § 1226(a)] of the INA is the applicable detention authority
20 for aliens who are already present in the United States after an admission and are
21 deportable. *Id.* §§ 236, 237(a). Aliens detained under INA § 236(a) may be eligible for
22 discretionary release on bond pursuant to INA § 236(a)(2). An alien in a custody
23 determination under INA § 236(a) must establish that he does not present a danger to
24 persons or property, is not a threat to national security, and does not pose a flight risk.
25 *Matter of Guerra*, 24 I&N Dec. 37, 38 (BIA 2006). Detained aliens do not have a right to
26 release on bond—instead, it gives the Attorney General the authority to grant bond if he
27 concludes, in the exercise of broad discretion, that the alien’s release on bond is warranted.
28 *Matter of E-Y-F-G-*, 29 I&N Dec. 103, 103-04 (BIA 2025) (citing *Matter of D-J-*, 23 I&N

Dec. 572, 575 (A.G. 2003)). Courts consider a variety of factors in assessing whether an alien merits release on bond, including:

(1) whether the alien has a fixed address in the United States; (2) the alien's length of residence in the United States; (3) the alien's family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; (4) the alien's employment history; (5) the alien's record of appearance in court; (6) the alien's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien's history of immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and (9) the alien's manner of entry to the United States.

Guerra, 24 I&N Dec. at 40.

The Secretary of the Department of Homeland Security has delegated U.S. Immigration and Customs Enforcement (ICE) the authority to revoke bond, rearrest an alien under the original warrant, and detain an alien released on bond at any time in its discretion, even if the bond is not breached. *See* INA § 236(b) [8 U.S.C. § 1226(b)].

Assuming an individual is eligible for bond, is it plausible he would be granted bond but denied parole?

If an alien is detained under INA § 235, then they are not eligible for bond. *See Q. Li*, 29 I&N Dec. 66, 69 (holding that “an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under INA § 235(b) and is ineligible for any subsequent release on bond under INA § 236(a)"); *Thuraissigiam*, 591 U.S. at 111 n.8 (noting that the release mechanism for arriving aliens is parole). For aliens seeking bond under INA § 236, DHS may decide to release an alien with or without bond or other conditions, or determine not to release the alien, but an alien can seek custody redetermination before an Immigration Judge, and the Immigration Judge could determine to release an alien on bond. *E.g., Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018).

II. Is it plausible to infer DHS intended for petitioner to be released in August 2022?

1 Yes, ICE Enforcement and Removal Operations (ERO) intended to release
2 petitioner in August 2022. It is plausible to infer that DHS intended for Petitioner to be
3 released on bond in 2022 had he been eligible for bond. However, it is not plausible to infer
4 that he was intended to be release on parole. Petitioner was advised on July 12, 2022 that
5 he was denied parole. (Doc. 1-5). He was also provided an Interim Notice Declining Parole
6 on August 1, 2022. (Doc. 1-6). Parole is discretionary and for humanitarian reasons.

7 **III. What process is required for revocation of bond and was that process followed**
8 **here?**

9 Bond revocation before a breach of bond has occurred entails cancelling the bond
10 contract—ICE Form I-352, Immigration Bond— through the issuance of ICE Form I-391,
11 Notice-Immigration Bond Cancelled. That process was followed here in that the petitioner
12 was issued ICE Form I-391 on June 9, 2025 (Doc. 1-9), and ERO fulfilled its other
13 obligations, administrative in nature, to cancel his bond.

14 **IV. What process is required to detain an individual who has been released on bond**
15 **before that bond has been canceled, and was that process followed here?**

16 There is no specific process that ICE must follow in order to rearrest and detain an
17 alien previously released on bond. Subsequent to an alien's rearrest, the responsible ERO
18 field office will determine whether a previously set bond should be documented as
19 breached or cancelled, which will determine which paperwork is issued to effectuate an
20 alien's bond breach or bond cancellation. The Form I-352, Immigration Bond, is the bond
21 contract which, among other things, explains the parties' obligations under the bond
22 agreement and identifies specific events that automatically cancel the bond. An alien's
23 rearrest is an enumerated event that triggers the bond cancellation process. When one of
24 the events described in ICE Form I-352 occurs before a bond is breached, including an
25 alien's arrest, ERO personnel will initiate an alien's bond cancellation by issuing ICE Form
26 I-391, Notice-Immigration Bond Cancelled. The regulation sets forth the broad standard
27 used to determine whether a bond should be breached or cancelled. The regulation states
28 that a "bond is breached when there has been a substantial violation of the stipulated

conditions.” 8 C.F.R. § 103.6(e). Conversely, a bond obligor is released from liability (the bond is cancelled) when substantial performance of all conditions imposed by the terms of a bond exists. *Id.* § 103.6(c)(3). Here, petitioner was released pursuant to a delivery bond, which is considered breached when the obligor fails to surrender the alien (or the alien fails to appear) on the date and place specified in the demand notice. The breach date, if applicable, is the date when the alien was supposed to but failed to appear, known as the surrender date. In this case, ICE had not sent the obligor a delivery demand before the alien was rearrested. Thus, the obligor did not renege on his contractual bond obligations, prompting ERO to cancel the petitioner’s bond, as opposed to rendering it breached.

V. If Asadieidivand had been granted parole in 2022, what process would have been required before that parole was revoked?

8 C.F.R. § 212.5(e) explicitly states when parole can be terminated. First, termination of parole is automatic without written notice either “upon the departure from the United States of the alien” or “if not departed, at the expiration of the time for which parole was authorized.” 8 C.F.R. § 212.5(e)(1). For aliens whose parole was automatically terminated due to expiration of the time for which parole was authorized, they shall be processed in accordance with paragraph (e)(2) except that they do not require written notice. *Id.*

For aliens whose parole was not automatically terminated, their parole may be terminated “upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a)¹ of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States.” 8 C.F.R. § 212.5(e)(2)(i). The parole of aliens in such a position “shall be

¹ Those officials include: “the Assistant Commissioner, Office of Field Operations; Director, Detention and Removal; directors of field operations; port directors; special agents in charge; deputy special agents in charge; associate special agents in charge; assistant special agents in charge; resident agents in charge; field office directors; deputy field office directors; chief patrol agents; district directors for services; and those other officials as may be designated in writing, subject to the parole and detention authority of the Secretary [of the Department of Homeland Security] or his designees.” 8 C.F.R. § 212.5(a).

1 terminated upon written notice to the alien and he or she shall be restored to the status that
 2 he or she had at the time of parole. When a charging document is served on the alien, the
 3 charging document will constitute written notice of termination of parole, unless otherwise
 4 specified.” *Id.*

5
 6 **VI. Was the release of Asadieidivand on bond void ab initio? If void ab initio, why**
 7 **was it necessary for respondents to “cancel[]” the bond on June 9, 2025? (Doc.**
 8 **16 at 2.)**

9 The release was not void ab initio even though Mr. Asadieidivand was not issued a
 10 parole document. There is not a legal prohibition against issuing bonds for INA § 235 cases
 11 as a condition of release. *See* 8 C.F.R. § 212.5(d)(1) (“In any case where an alien is paroled
 12 under paragraph (b) or (c) of this section . . . a bond may be required on Form I-352 in such
 13 amount as may be deemed appropriate”). As explained above, ICE has the authority to re-
 14 detain any alien released on bond, even if the bond is not breached. *See* INA § 236(b) [8
 15 U.S.C. § 1226(b)]. In the event that occurs, ICE cancels the bond. *See* Immigration Bond
 16 Fact Sheet, “When is an immigration bond cancelled?,”
 17 <https://www.ice.gov/detain/detention-management/bonds> (last visited Aug. 22, 2025).

18 Cancelling a bond formally ends the financial obligation of the obligor undertaken
 19 to guarantee an alien’s appearance in court or their departure from the United States. When
 20 a bond is cancelled, the obligor may be eligible to receive a refund of the bond amount,
 21 plus any accrued interest. So even if the bond was void ab initio, cancellation of the bond
 22 is needed to return the money to the obligor.

23 There are four types of bond that have different terms and conditions depending on
 24 the type of bond that the obligor posts. The applicable bond in this matter is a delivery
 25 bond. For such bonds, the obligor is required to have the alien report to the location at the
 26 date and time specified by ICE each time that ICE issues a Notice to Obligor to Deliver
 27 Alien (Form I-340).

28 ICE will issue a cancellation of a delivery bond if any of the following occur before
 a bond breach: 1) ICE takes the alien back into its custody, 2) ICE removes the alien from

the United States, or 3) the alien dies. ICE will issue a cancellation on a voluntary departure bond if: 1) EOIR grants the voluntary departure and the obligor provides proof that the alien timely departed as required, or 2) the alien dies before the voluntary departure date. Finally, ICE will issue a cancellation notice on an Order of Supervision bond if the alien complies with all the terms of the Order of Supervision while it remains in effect. Immigration Bond Fact Sheet, “When is an immigration bond cancelled?,” <https://www.ice.gov/detain/detention-management/bonds> (last visited Aug. 22, 2025). ICE will cancel a public charge bond if: 1) the alien departs the United States, 2) the alien is naturalized, or 3) the alien dies. <https://www.ice.gov/sites/default/files/documents/Document/2017/i352.pdf> ICE Form I-352: Immigration Bond, ICE, <https://www.ice.gov/sites/default/files/documents/Document/2017/i352.pdf> (last visited Aug. 22, 2025) at 5.

VII. If the 2022 bond was not void, and was not cancelled until June 9, 2025, what was the legal authority for petitioner’s detention between May 31 and June 9, 2025?

The custody authority was INA § 235. Please see Question 1 for a review. As described in Question 6, bond cancellation is not instantaneous. Additionally, the existence of a bond neither conveys nor controls custody authority and does not prohibit re-detention. *See* INA § 236(b) [8 U.S.C. § 1226(b)].

VIII. Are asylum-seekers such as Asadieidivand still being considered for parole? If respondents have adopted a policy of no longer granting parole, is that policy consistent with the governing statutory text?

Please see the answer to Question 1 explaining the two different custody authorities and who falls under each. Asadieidivand’s status as an “asylum-seeker” is not the determinative factor. Custody authority is determined by whether an alien is an “applicant for admission.” For applicants for admission subject to detention under INA § 235, such as the petitioner, cases are reviewed for release on parole on a case-by-case basis. *See* INA

1 § 212(d)(5)(A) [8 U.S.C. § 1182(d)(5)(A)]; 8 C.F.R. §§ 212.5(b); 235.3(b)(2)(iii),
2 (b)(4)(ii). DHS has not adopted a policy of no longer granting parole.

3
4 RESPECTFULLY SUBMITTED August 25, 2025.

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