U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

August 14, 2025

BY ECF
Honorable Orelia Merchant
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Rodriguez Orellana v. Francis, et al.*, No. 25-cv-4212 (Merchant, J.)

Dear Judge Merchant:

This Office represents Respondents Immigration and Customs Enforcement ("ICE") New York Field Office Acting Director LaDeon Francis, ICE Acting Director Todd Lyons, Secretary of Homeland Security Kristi Noem, and Attorney General Pam Bondi ("Respondents") in the above-referenced case. Respondents respectfully write to supplement and clarify the information supplied in Respondents' letter filed yesterday at 5:00 p.m. (ECF No. 12) -which noted that the Respondents were working diligently to confirm information -now confirmed and the minimal impact of this new information on the legal arguments set forth in Respondents' brief filed August 12, 2025, at ECF No. 9 ("Opp." or "Opposition").

Confirmed Updates to Administrative History

Respondents' Opposition set forth administrative history at pages 4-6, that inter alia indicated that Petitioner's parole had terminated in April 2025. As noted in Respondents' letter yesterday (ECF No. 12), this Office has continued its diligent efforts to obtain additional information in response to Petitioner's filing reflecting that his grant of parole had been to December 2026, not April 2025 (ECF No. 10). Yesterday's letter by Respondents attached additional information from the same database as Petitioner's filing, a pubic-facing database, that reflected that Petitioner's parole was in fact already terminated in April 2025—a fact Petitioner himself was able to check at any time, through counsel—and that there were some indication he had been notified of this termination in April 2025.

Respondents respectfully request leave to submit the following update. Earlier today, this Office was able to obtain the attached Declaration of Graham S. Dudley, which sets fort that "On April 11, 2025, [U.S. Customs and Border Protection "CBP"] sent Petitioner via email a "Notice

of Termination of Parole" informing Petitioner that his parole would terminate seven days from the date of the notice." *See id.* ¶ 3.

Effect on Respondents' Legal Arguments

Respondents respectfully submit that this change does not affect their arguments at to commencement of expedited removal or to the dismissal of removal proceedings under 8 USC 1229a, to wit, many of the arguments in their opposition brief, nor other threshold arguments in their opposition brief even as to parole and detention. The unaffected arguments are: Parts I and II, Part III.A (except the second full paragraph), III.B.i, III.B.ii, and III.C.

As to parole and detention, Respondents had argued in short that no notice was required because parole had been for a grant of time of several months that had ended. In light of the updated information, Respondents respectfully contend, in a nutshell, that the termination of parole was proper even though the initial grant of parole had been longer, and was terminated early, such that notice was required, notice was given.

In light of this Office's confirmation this morning that Petitioner received notice of his parole revocation on April 11, 2025, Respondents respectfully seek leave to amend the following portions of Respondents' Opposition to Petition for Writ of Habeas Corpus (ECF No. 9):

Preliminary Statement

1. **ORIGINAL:** "…U.S. Customs and Border Protection ("CBP") opted at that time to place Petitioner in removal proceedings under 8 U.S.C. § 1229a and to release him temporarily; his parole expired in April 2025."

   - **REVISION:** "…U.S. Customs and Border Protection ("CBP") opted at that time to place Petitioner in removal proceedings under 8 U.S.C. § 1229a and to release him temporarily; his parole *was initially set to expire in December 2026*."

2. **ORIGINAL:** "In any event, ICE's actions do not violate any statute, regulation, or constitutional provision, not least because his parole was time-limited and automatically terminated by operation of law, without notice being required, and the detention appurtenant to both removal proceedings in this context and expedited removal is otherwise mandatory under 8 USC §§ 1225(b)(1)(B)(ii) and 1225(b)(2)(A)."

   - **REVISION:** "In any event, ICE's actions do not violate any statute, regulation, or constitutional provision, *not least because DHS's provided notice of its discretionary revocation of parole, which is all the regulation requires,* and the detention appurtenant to both removal proceedings in this context and expedited removal is otherwise mandatory under 8 USC §§ 1225(b)(1)(B)(ii) and 1225(b)(2)(A)."

Relevant Statutory and Regulatory Framework

3. **ORIGINAL:** "Moreover, if 'at the expiration of the time for which parole was authorized' then parole is 'automatically terminated without written notice.' 8 C.F.R. § 212.5(e)(1)."

- **REVISION:** "Moreover, discretionary parole may be revoked with notice 'when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole.' 8 C.F.R. § 212.5(e)(2)."

Relevant Facts and Procedural History

4. **ORIGINAL:** "In connection with the § 1229a proceedings, CBP used its discretion under 8 U.S.C. § 1182(d)(5) to parole Petitioner into the United States through April 18, 2025."

    - **REVISION:** "In connection with the § 1229a proceedings, CBP used its discretion under 8 U.S.C. § 1182(d)(5) to parole Petitioner into the United States through December 17, 2026."

5. **ORIGINAL:** "On April 19, 2025, upon the expiration of the time for which parole was authorized, Petitioner's grant of parole terminated automatically."

    - **REVISION:** "On April 11, 2025, CBP provided notice to Petitioner via email that his parole would be revoked in 7 days. Declaration of Graham S. Dudley ("Dudley Decl.") ¶ 3. On April 18, 2025, Petitioner's discretionary grant of parole terminated."

6. **ORIGINAL:** "At the time of dismissal of the § 1229a proceedings, Petitioner no longer had parole status: it had automatically terminated on April 18, 2025 pursuant to 8 C.F.R. § 212.5(e)(1)."

    - **REVISION:** "At the time of dismissal of the § 1229a proceedings, Petitioner no longer had parole status: it had been terminated on April 18, 2025 pursuant to 8 C.F.R. § 212.5(e)(2)."

PART I.B.

7. **ORIGINAL:** "…which is not the case, as it was granted for a limited period and terminated under 8 C.F.R. 212.5(e)(1)"

    - **REVISION:** "…which is not the case, as it was properly revoked in DHS's discretion with notice under 8 C.F.R. 212.5(e)(2)."

8. **ORIGINAL:** "Assuming arguendo that, as Plaintiff alleges, ICE revoked Petitioner's parole in June 2025—which is incorrect because the parole had expired in April 2025 …"

    - **REVISION:** "Assuming arguendo that, as Plaintiff alleges, ICE revoked Petitioner's parole without notice in June 2025—which is incorrect because he received notice of the parole revocation in April 2025…"

PART III.A.

9. **ORIGINAL:** "However, the predicate is incorrect. DHS did not revoke Petitioner's parole—it expired at the end of the granted period, which ended April 18, 2025. *See* Charles Decl. ¶¶ 5, 7. Moreover, no notice was required under the relevant regulation, 8 C.F.R. § 212.5(e)(1)(ii), in view of that circumstance."

- **REVISION:** "However, the predicate is incorrect. DHS gave Petitioner notice on April 11, 2025 that his discretionary parole would be revoked on April 18. *See* Dudley Decl. ¶ 3. Because the parole was revoked on notice, there was no INA violation. 8 C.F.R. § 212.5(e)(2), in view of that circumstance."

PART III.B.i.

10. **ORIGINAL:** "Petitioner's APA claim that procedural due process was violated by not providing him a hearing prior to revoking his parole is not only based on a faulty premise—his parole terminated automatically and not notice was required as a matter of law in that scenario."

- **REVISION:** "Petitioner's APA claim that procedural due process was violated by not providing him a hearing prior to revoking his parole is not only based on a faulty premise—he received notice 7 days prior to revocation and two months prior to detention."

PART II.B.iii.

11. **ORIGINAL:** "Petitioner incorrectly asserts that Respondents 'violated their own regulations for the revocation of humanitarian parole,' Pet. ¶ 66, but he is incorrect. To the contrary, Petitioner's parole was automatically revoked upon its expiration on April 18, 2025. Indeed, 8 C.F.R. § 212.5(e) expressly allows for automatic termination of parole, without notice, 'at the expiration of the time for which parole was authorized.' *See* 8 C.F.R. § 212.5(e)(1)(ii)."

- **REVISION:** "Petitioner incorrectly asserts that Respondents "violated their own regulations for the revocation of humanitarian parole," Pet. ¶ 66, but he is incorrect. To the contrary, Petitioner's parole was revoked on April 18, 2025 with prior notice, and he was not detained until two months later. Indeed, 8 C.F.R. § 212.5(e)(2) expressly allows for discretionary termination of parole, with notice. *See* 8 C.F.R. § 212.5(e)(2)."

12. **ORIGINAL:** "The constitutional due process rights of applicants for admission are limited to the process that Congress chooses to provide. In § 1225(b) and related provisions, Congress has afforded applicants for admission a variety of protections, but nevertheless mandated detention with only the possibility of discretionary parole, subject to automatic termination upon expiration."

PART IV

13. **ORIGINAL:** "As discussed supra, his prior parole granted to him temporarily, and as a matter of discretion, did not alter his status as an applicant for admission, let alone imbue him with a vested right to remain undetained, and ICE acted within its authority to detain him pursuant to his removal proceeding and, as relevant the now-paused expedited removal process."

- **REVISION:** "As discussed supra, his prior discretionary parole did not alter his status as an applicant for admission, let alone imbue him with a vested right to remain undetained, and ICE acted within its authority to revoke that parole (with notice) and detain him pursuant to his removal proceeding and, as relevant the now-paused expedited removal process."

Respondents thank the Court for its time and consideration herein.

Respectfully submitted,

JOSEPH NOCELLA, JR.
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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JHON RODRIGEUZ ORELLANA,

Petitioner,

-against-

LaDeon FRANCIS, in his official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; Todd LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Attorney General,

Respondents.

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Civil Action No.
25-cv-4212

(Merchant, J.)

DECLARATION OF GRAHAM S. DUDLEY

I, Graham S. Dudley, declare as follows:

1. I am the Director, Enforcement Programs Division (EPD), Admissibility and Passenger Programs (APP), Office of Field Operation (OFO), U.S. Customs and Border Protection (CBP), Department of Homeland Security, in Washington, D.C. As Director, EPD, I manage a senior law enforcement team at CBP Headquarters which oversees admissibility policy development in conjunction with oversight for the processing of travelers seeking entry to the United States at ports of entry. I have served in this role since January 2023. As a Director, and in coordination with CBP's Office of Information and Technology (OIT), I have access to CBP systems that store records of email communications to/from a CBP email domain. The following representations are made based on my review of CBP systems and email records between CBP and Petitioner, in coordination with CBP's OIT.

2. I submit this Declaration in support of Respondents' Opposition to the Petition for Writ

of Habeas Corpus.

3. On April 11, 2025, CBP sent Petitioner via email a "Notice of Termination of Parole" informing Petitioner that his parole would terminate seven days from the date of the notice.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury that the foregoing is true and correct.

Executed in Washington, DC on August 14, 2025.

Graham S. Dudley
Director, Enforcement Programs Division
Admissibility and Passenger Programs
Office of Field Operations
U.S. Customs and Border Protection