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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MERAV BUSKILA EDIRI,

Petitioner,
v.

KRISTI NOEM SECRETARY OF
HOMELAND SECURITY, ET AL.,

Respondents.

Case No.: 2:25-cv-09305-MCS-BFM

**PETITIONER'S REPLY TO
RESPONDENTS' ANSWER**

Honorable Brianna Fuller Mircheff
United States Magistrate Judge

I. INTRODUCTION

Petitioner, Merav Buskila Ederi, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 requesting release from immigration detention at the Adelanto Detention Center. Petitioner respectfully requests that the Court grant the Petition because: (1) Respondents' have failed to provide an individual review of her request for bond or parole is in violation of 8 C.F.R. § 236.1(c)(8) which states that ICE "may continue to detain the alien, release the alien on bond, or release the alien on conditional parole," after considering individualized factors; (2) Respondents' acted in bad faith charging her as removable as an "arriving alien" to strip the Immigration Courts of jurisdiction over a bond in violation of the caselaw; (3) Petitioner does not seek review of Respondents decision to initiate removal proceedings and place Petitioner in removal proceedings.

II. STATEMENT OF FACTS

Petitioner, Merav Buskila Ederi, is a 52-year-old citizen of Israel, currently detained at ADELANTO DETENTION FACILITY located at 10400 Rancho Road Adelanto, CA 92301. the Petitioner was detained by ICE during a routine check-in on September 28, 2025.

On August 22, 2000, Petitioner lawfully entered the United States as a B-2 nonimmigrant visitor. Petitioner filed a Form I-539, Application to Extend her nonimmigrant status with USCIS that was approved. On May 27, 2010, Petitioner filed Forms I-130 and I-485 concurrently with USCIS based on a prior marriage to a U.S. Citizen. While her I-485 was pending Petitioner was granted advance parole. She left the United States twice on her advance parole with her last entry on June 9, 2015. Ultimately, the Petitioner's I-485 was denied as USCIS found she failed to demonstrate the *bona fides* of the marriage.

On or about September 17, 2025, Petitioner filed new Forms I-130 and I-485 with USCIS because he adult U.S. citizen daughter turned 21 years of age. Those remain pending. On September 29, 2025, Petitioner reported to the ICE office in Camarillo, California for her scheduled check-in, and ICE ERO officers arrested her. Prior to appearing, petitioner's counsel, sent the ICE officer in charge of her case, the entire adjustment of status application for permanent residency based on her United States Citizen (USC) daughter's petition for her together with the receipts showing the applications have been received by USCIS and being processing by USCIS. On September 29, 2025, the Petitioner was placed into removal proceedings through issuance of a Notice to Appear (NTA) charging Petitioner under INA 212(a)(7)(A)(i)(D), "as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act."

On October 15, 2025, the Petitioner first appeared before the Immigration Judge for a custody redetermination hearing. The Immigration Judge denied the Petitioner's

1 request for bond because the court found it lacked jurisdiction to do so because ICE
2 charged her as an arriving alien. Attached is a copy of the Immigration Judge's order at
3 Exhibit A.

4 Following the denial of bond for lack of jurisdiction, the Petitioner again
5 requested bond or parole but from her Deportation Office in Adelanto, CA. *See* ICE
6 bond request at Exhibit B. To date, no decision has been made.

7 **III. ARGUMENT**

8 **a. The Respondents are Required by Law to Provide Individualized** 9 **Review for Bond or Parole and Have Failed to Do So**

10 Respondents in Petitioner's case have failed to perform an individual review of
11 the Petitioner's custody, instead issuing blanket denials nationally in violation of the
12 law. 8 C.F.R. § 236.1(c)(8) states that ICE "may continue to detain the alien, release the
13 alien on bond, or release the alien on conditional parole," after considering
14 individualized factors. 8 C.F.R. § 212.5(b) *requires individualized parole*
15 *determinations for arriving aliens who present neither a security nor flight risk.*
16 *Damus v. Nielsen*, 313 F. Supp. 3d 317 (D.D.C. 2018) (Court ordered ICE to end blanket
17 denials and conduct individualized parole reviews.) In the instant matter, Petitioner has
18 not received any individualized review as required by law. When she was detained
19 during her routine check-in, Petitioner was told she would see an Immigration Judge.
20 The Respondents upon taking her into custody knew at that time they were charging her
21 under INA 212(a)(7)(A)(i)(D) which strips the Immigration Judge of custody
22 redetermination but refused to individually review her case to see if she was a security
23 or flight risk. Moreover, following denial of her custody redetermination with the
24 Immigration Judge for lack of jurisdiction, Petitioner submitted a formal request to ICE
25 for review and no review was completed to date. The Petitioner however can show she
26 is not a flight nor security risk, having no criminal history and significant ties to the
27 United States including U.S. citizen children and heavy involvement in her community.
28

1 Insofar as ICE is issuing blanket denials of bond or parole under this administration this
2 violates the law and supports granting her petition.

3 **b. The Respondents Charged the Petitioner as an Arriving Alien In**
4 **Violation of the Law**

5 The Respondents have further violated the law because the Petitioner is not an
6 “arriving alien” based on *Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771 (BIA
7 2012) that held a departure from the United States under a grant of advance parole by a
8 noncitizen with a pending adjustment of status application (Form I-485) does not
9 constitute a “departure”. Petitioner argues that she is wrongly classified as an “arriving
10 alien” and therefore not eligible for a bond before an immigration judge as a result. In
11 *Matter of Arrabally and Yerrabelly*, the BIA held a departure on advance parole is not
12 legally a “departure”. This case conflicts with prior case law that found a person who
13 returns to the United States under a grant of advance parole is considered an “arriving
14 alien” under 8 C.F.R. § 1.1(q) (now § 1001.1(q)). *Matter of Oseiwusu*, 22 I&N Dec. 19
15 (BIA 1998). *Matter of Arrabally* should be read to overrule the prior holding in *Matter*
16 *of Oseiwusu* as a result. Insofar as a “departure” is not a departure while under advance
17 parole the Petitioner would be restored to her prior status as a visa overstay.
18 Furthermore, Respondents are not entitled to deference over the definition of an
19 “arriving alien” because it is ambiguous. *Loper Bright Enters. v. Raimondo*, 603 U.S.
20 369 (2024). (holding courts may not defer to a federal agency’s interpretation of an
21 ambiguous statute simply because the statute is unclear.) Petitioner does not contend
22 that Respondents prior definition of arriving alien is challengeable but rather their
23 actions today defining the Petitioner as an arriving alien stripped of bond review.
24 Accordingly, her continued detention as an “arriving alien” is also in violation of the
25 law.

26 **c. Petitioner Does Not Challenge the Decision to Commence Removal**
27 **Proceedings but Challenges the Unlawful Detention and Classification**
28 **of Her as an Arriving Alien**

Petitioner does not dispute that the Respondents are legally able to commence removal proceedings in her case. Petitioner challenges her unlawful detention for violation of 8 C.F.R. § 236.1(c)(8) and 8 C.F.R. § 212.5(b). This was not previously raised because the Petitioner had not completed her custody redetermination hearing before the Immigration Judge at the time of filing the *Ex Parte* Temporary Restraining (“TRO”) Order. Although the Honorable Court denied the TRO filed on the basis of her First Amendment Rights, Respondents have violated the law in failing to conduct an individual review in her case particularly when the Petitioner can show she is neither a flight risk nor danger to the community. Respondents have also violated the law by placing her into removal as an “arriving alien” to thwart the Immigration Judge of jurisdiction over her bond request and place custody solely into their discretion. Respondents further continue to argue the Petitioner committed marriage fraud something wholly irrelevant to her custody and also was specifically not found in the Ninth Circuit decision. Respondents have also not charged the Petitioner as removable for engaging in a “sham marriage”. Therefore, any claim she engaged in fraud would be a red herring in this matter to intentionally place the Petitioner in a bad light.

IV. CONCLUSION

Based upon the foregoing, it is respectfully requested that the Court enter an order granting her habeas petition and release the Petitioner from custody.

Dated: November 5, 2025

Respectfully Submitted,

/s/ Jennifer Rozdzielski
Jennifer Rozdzielski
Attorney for Petitioner