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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Amin Ibrahim HASSEN

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Todd M. LYONS, Acting
Director, U.S. Immigration & Customs
Enforcement; David EASTERWOOD, Acting
Director, St. Paul Field Office, Immigration and
Customs Enforcement; Warden, ERO El Paso –
Camp East Montana

Respondents.

Case No: EP-26-CV-00048-DB

**TRAVERSE IN SUPPORT OF
PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

Petitioner is a 19-year-old citizen of Ethiopia in removal proceedings with a pending, defensive application for asylum. He also has an application pending for Special Immigrant Juvenile (“SIJ”) classification before U.S. Citizenship and Immigration Services (“USCIS”).

After Petitioner entered the United States, the Department of Homeland Security (“DHS”) issued a Notice of Expedited Removal pursuant to 8 U.S.C. § 1225(b)(1). That order was vacated after an asylum officer determined that there was a significant possibility Petitioner

could establish eligibility for asylum, and DHS initiated full removal proceedings under 8 U.S.C. § 1229a.

On November 18, 2024, DHS exercised its discretion to parole Petitioner into the United States for humanitarian reasons pursuant to 8 U.S.C. § 1182(d)(5)(A). That parole was authorized for one year and expired automatically on November 18, 2025. [Pet'r's Exhibit 2].

On January 9, 2026—52 days after parole expired—ICE rearrested Petitioner. As set forth in the Petition [Dkt. 1], Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b) because, at the time of his rearrest, he was not “seeking admission” to the United States. His detention is independently unlawful because Respondents failed to comply with the statutory and regulatory requirements governing parole termination and they detained Petitioner without an individualized assessment.

ARGUMENT

A. This Court Has Jurisdiction

Respondents assert that this Court lacks jurisdiction under 8 U.S.C. § 1252(g), asserting that Petitioner’s challenge “arises directly from the decision to commence and/or adjudicate removal proceedings” *See* Respondents’ Return [Dkt 4].

The Court has already rejected that argument. In its Order to Show Cause the Court correctly found that this case is not materially distinguishable from *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025), where the Court held that § 1252(g) does not bar jurisdiction over challenges to unlawful detention.

As in *Vieira*, Petitioner does not challenge DHS’s authority to initiate removal proceedings. He does not challenge the charge of removability under 8 U.S.C. § 1182(a)(6)(A)(i), nor does he seek review of a removal order—none exists. Instead, Petitioner

challenges Respondents' failure to comply with the statutory and regulatory framework governing parole termination and their subsequent detention of him under 8 U.S.C. § 1225(b), after he had already been paroled into, and was residing within, the United States during ongoing removal proceedings.

Because Petitioner does not challenge the commencement of removal proceedings, his initial detention upon entry, or any removal order, § 1252(g) does not divest this Court of jurisdiction.

B. Petitioner Did Not Revert to Mandatory Detention Under §1225(b)

Respondents contend that Petitioner automatically returned to mandatory detention under § 1225(b) when his parole expired. That position misstates both the statute and the governing regulations.

DHS detained Petitioner under § 1225(b)(1), determined that he had a credible fear of persecution or torture if returned to Ethiopia, and paroled Petitioner into the United States under § 1182(d)(5)(A). Parole under that provision may be granted only for “urgent humanitarian reasons or significant public benefit” and “shall not be regarded as an admission” 8 U.S.C. § 1182(d)(5)(A).

Parole termination is governed by regulation. Under 8 C.F.R. § 212.5(e)(2)(i), parole must be terminated either upon accomplishment of its purpose or upon a determination that continued parole is no longer warranted. Termination must occur upon written notice to the noncitizen, at which point the individual “shall *forthwith* be restored to the status that he or she had at the time of parole.” 8 U.S.C. § 1182(d)(5)(A) (emphasis added).

In *Matter of Q. Li*, 29 I & N. Dec. 66, 70 (BIA 2025), the Board held that a noncitizen who is detained under 8 U.S.C. § 1225(b), released on parole under § 1182(d)(5)(A), and re-detained contemporaneously upon termination of parole is returned to § 1225(b) custody.

Crucially, both *Q. Li* and the statutory term “forthwith” both presuppose immediate or contemporaneous re-detention at the time parole ends.

That did not occur here.

Parole terminates either upon written notice or automatically upon expiration of the authorized parole period. 8 C.F.R. § 212.5(e)(1). DHS issued Petitioner’s Notice to Appear before granting parole, and thus the NTA could not have served as notice of parole termination. Petitioner’s parole therefore expired automatically on November 18, 2025. By that date, he was already in § 1229a removal proceedings with a pending asylum application.

DHS nevertheless allowed him to remain at liberty for an additional 52 days. When ICE arrested him on January 9, 2026, DHS did not serve him with any written notice terminating parole.

The purpose of Petitioner’s parole had not been accomplished. At the time of Petitioner’s rearrest, he remained in removal proceedings and continued to seek asylum protection. He also had a pending SIJ petition based on a state court finding that he is an at-risk juvenile, that reunification with his parents is not viable due to death and abandonment, that return to Ethiopia is not in his best interests, and that appointment of his U.S. citizen sister in Minnesota as guardian serves those interests. [See Pet’r’s Exhibit 3].

Nothing in the record suggests that the humanitarian reasons or public benefit justifying parole ceased to exist. To the contrary, detaining an adjudicated at risk juvenile and separating him from his court-appointed guardian is incompatible with the humanitarian purposes of parole.

Courts consistently hold that parole revocation, like parole itself, requires an individualized, case-by-case determination. *See* Petition [Dkt 1], ¶ 54. Here, there is no evidence that Respondents conducted any individualized assessment detaining Petitioner.

Because parole expired without contemporaneous re-detention, DHS elected not to treat Petitioner as an arriving alien, permitted him to remain at liberty while his § 1229a proceedings continued, and thus placed him within the discretionary detention framework of 8 U.S.C. § 1226(a), not § 1225(b). *See Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).

Section 1225(b) authorizes detention only “pending a final determination of admissibility” and contemplates continuous custody unless parole is promptly revoked. DHS’s prolonged acquiescence in Petitioner’s liberty—nearly 14 months after initial release and 52 days after parole expiration—is incompatible with mandatory detention. DHS may not retroactively impose § 1225 detention after declining to do so when parole ended.

Finally, even assuming arguendo that Petitioner reverted to arriving-alien status upon parole expiration, he was not “seeking admission” to the United States on January 9, 2026. He was residing in the United States and already in removal proceedings. Mandatory detention under § 1225 does not apply. Respondents claim that, even if Petitioner is released, they could rearrest him for no reason other than his status as a noncitizen. They argue that any noncitizen, regardless of whether they are already present and residing in the United States, in removal proceedings with a pending asylum application is “an alien seeking admission” subject to mandatory detention under § 1225. This Court and other courts throughout the country have repeatedly rejected Respondents’ contention that any noncitizen in removal proceedings is perpetually an “alien seeking admission” subject to mandatory detention. *See* Petition [Dkt 1] ¶¶ 62–66.

C. Petitioner's Detention Violates the Fifth Amendment

Respondents argue that Petitioner is entitled to no further process because removal proceedings provide notice, counsel, and an opportunity to be heard. That argument ignores the constitutional injury at issue: Petitioner's ongoing, unlawful, detention.

"Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Fifth Amendment applies to all persons, regardless of immigration status. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

In *Vieira*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing test to ICE's rearrest and detention of a noncitizen in removal proceedings. The same analysis applies here.

Petitioner's private liberty interest is substantial. He was granted humanitarian parole after DHS determined that he posed no danger or flight risk, lived at liberty for an extended period, and is now subject to confinement—one of the most fundamental deprivations of liberty. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

The Court may also consider conditions of confinement. *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025). Petitioner's detention separates him from his court-appointed guardian and subjects him to conditions indistinguishable from criminal incarceration, including loss of family contact and freedom of movement.

The second *Mathews* factor likewise weighs in Petitioner's favor. Respondents' generalized interest in ensuring appearance for removal proceedings and community safety is undermined by their own decision to parole Petitioner and allow him to remain free for 52 days after parole expired. *See Vieira*, at *6.

The third *Mathews* factor weighs decisively in Petitioner's favor. Applying § 1225(b) without any individualized assessment creates a substantial risk of erroneous deprivation of liberty—particularly where DHS previously determined the individual was not dangerous or a flight risk and no material change in circumstances is alleged.

CONCLUSION

For these reasons, and those set forth in the Petition, the Court should assert jurisdiction and grant the writ, finding that Petitioner's detention is unlawful because Respondents failed to comply with the statutory and regulatory requirements governing parole termination, detained him without an individualized assessment, and applied 8 U.S.C. § 1225(b) in violation of the Fifth Amendment.

DATED this 21st Day of January, 2026



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