UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

CRUZ I. RODRIGUEZ-HERNANDEZ, A[redacted] **Petitioner,** **v.** **JASON STREEVAL, WARDEN, STEWART DETENTION CENTER,** **Respondent.**	**Case No. 4:26-cv-101-CDL-AGH**

PETITIONER'S REPLY BRIEF

Petitioner respectfully submits this Reply in further support of his Petition for Writ of Habeas Corpus. At the outset, Petitioner clarifies the relief sought. This is a pre-final-order detention case. An appeal of the Immigration Judge's removal order has been timely filed and remains pending before the Board of Immigration Appeals. Exhibit A, *Appeal Receipt Notice.* The removal order is therefore not administratively final, and Petitioner's detention is not governed by 8 U.S.C. § 1231.

This case is not primarily about bond. It concerns an ongoing constitutional violation. Petitioner presented himself for admission through the Government's CBP One process, was paroled into the United States, lived in the community for nearly three years, complied with all supervision requirements, and was granted authorization to work. ECF No. 1. He was then abruptly re-detained without notice, without an individualized determination, and without any opportunity to be heard. *Id.* That deprivation of liberty occurred in the absence of constitutionally required

procedures. *Id.* Because the violation is ongoing, the primary remedy is immediate release. Bond is requested only as alternative relief should the Court decline to order release.

If the Court determines that a custody review is necessary, Petitioner respectfully requests that this Court exercise its authority under 28 U.S.C. § 2241 to conduct an evidentiary bond hearing itself. Federal courts possess broad habeas power to remedy unlawful detention. Given the procedural irregularities in the removal proceedings, [1]remanding Petitioner to the same framework without judicial safeguards risks perpetuating the constitutional harm. Immediate release is warranted, or, at minimum, a bond hearing conducted by this Court under constitutionally sound standards

I. SECTION 1225(b) DOES NOT GOVERN PETITIONER'S INTERIOR DETENTION

The Government asserts that Petitioner is detained as an "arriving alien" under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention. That characterization is legally incorrect. Section 1225 governs inspection and initial processing at or near the border. Its text repeatedly refers to noncitizens who "arrive" and who are "seeking admission." These verbs are written in the present tense and describe the threshold encounter between the sovereign and an individual attempting entry. Section 1225 regulates what occurs at the moment of examination — not the arrest of individuals who have been paroled into the United States and permitted to reside in the interior for years.

Petitioner was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A). He resided in the interior for nearly three years. He complied with supervision requirements,

[1] Without seeking merits review, Petitioner notes that he was ordered removed without a meaningful opportunity to obtain counsel, and his appeal remains pending before the Board of Immigration Appeals. As an unrepresented noncitizen, he was given only six days—rather than the ten days provided by the Immigration Court Practice Manual—to respond to DHS's motion. These facts underscore that the proceedings are ongoing and contested, and that due process concerns extend beyond the custody issue before this Court.

maintained employment authorization, and established family and community ties. ICE re-detained him in the interior long after the inspection stage had concluded. At that point, he was not "arriving," nor was he actively "seeking admission" within the meaning of § 1225(b). The Government's theory depends on recasting Petitioner as perpetually "seeking admission." But § 1225(b)(2)(A) applies when "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." The phrase "seeking admission" is written in the present participle, denoting ongoing action — not a historical condition that lingers indefinitely. An individual is "seeking admission" during inspection. The phrase does not describe someone who was paroled years earlier and has since resided in the country's interior.

Likewise, "arriving" is temporally bounded. It describes the act of coming to or reaching a place. One is "arriving" at the moment of arrival — not after establishing residence within the country. Nothing in the text of § 1225 transforms "arriving" into a permanent legal identity.

Federal courts confronting materially indistinguishable facts have rejected the Government's expansive interpretation of § 1225(b). In *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025), the court held that "arriving" refers to the physical entry process, not a perpetual legal status, and that once DHS paroles an individual into the interior, detention authority shifts to § 1226(a), not § 1225(b).

Other courts have reached the same conclusion. See *Qasemi v. Francis*, 2025 WL 3654098, at *8 (S.D.N.Y. Dec. 17, 2025); *Vasquez-Rosario v. Noem*, 2026 WL 196505, at *1 (E.D. Pa. Jan. 26, 2026); *Suarez-Lugo v. Bondi*, 2026 WL 332317, at *9 (S.D. Tex. Feb. 6, 2026); *Rodriguez v. Rokosky*, 2025 WL 3485628, at *2 (D.N.J. Dec. 3, 2025); *Daza v. Albarran*, 2026 WL 81518, at *5 (N.D. Cal. Jan. 12, 2026). These courts consistently hold that parole removes a noncitizen from

the inspection-stage framework of § 1225 and that any subsequent interior detention must proceed under § 1226(a).

Although these decisions arise outside this Circuit, they reflect a consistent and growing judicial interpretation grounded in the INA's text and structure. Across jurisdictions, courts have examined verb tense, context, and statutory framework and concluded that "arriving" describes a process occurring at the moment of entry — not a permanent legal identity that attaches indefinitely to parolees who have been released into the interior of the United States. The statutory structure confirms this conclusion. Section 1226(a) authorizes the arrest and detention of noncitizens already present in the United States pending removal proceedings and expressly contemplates discretionary detention and individualized custody determinations. Interpreting § 1225(b) to govern detention of previously paroled individuals residing in the interior would collapse the distinction between inspection authority and arrest authority and render § 1226(a) largely superfluous. Petitioner's detention, if authorized at all, arises under § 1226(a). Section 1225(b) does not authorize mandatory detention of a parolee who lived in the United States for years prior to re-detention.

II. THIS COURT HAS JURISDICTION TO REVIEW THE LEGALITY OF PETITIONER'S DETENTION

Respondent argues that 8 U.S.C. § 1252(a)(2)(B) strips this Court of jurisdiction because parole decisions are discretionary. That argument misstates both the nature of Petitioner's claim and the scope of the jurisdictional limitation. Petitioner does not seek review of ICE's discretionary judgment to grant or deny parole as a matter of policy or executive grace. He challenges the legality of his present detention and the constitutionality of the procedures used to revoke his liberty. That distinction is critical.

Section 1252(a)(2)(B) precludes judicial review of certain discretionary determinations. It does not eliminate habeas jurisdiction over constitutional and legal challenges to executive detention. The Supreme Court has repeatedly reaffirmed that constitutional claims and questions of law remain reviewable notwithstanding jurisdiction-stripping provisions. See *INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001) (holding that absent a clear statement from Congress, courts will not construe statutes to eliminate habeas jurisdiction over legal and constitutional claims); *see also Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018) (recognizing federal courts retain jurisdiction to review the statutory and constitutional basis for detention under § 2241).

Habeas corpus has historically served as the mechanism for testing the legality of executive detention. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (describing the writ as a "means of reviewing the legality of Executive detention"); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (entertaining a habeas challenge to immigration detention notwithstanding statutory limitations). Section 2241 confers jurisdiction to determine whether custody violates "the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner's claim falls squarely within that statutory grant.

The distinction is straightforward. A court may not review the Executive's discretionary weighing of factors where discretion is lawfully exercised. But a court retains authority to determine whether the Executive has acted outside the bounds of statutory authority or in violation of the Constitution. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (exercising habeas jurisdiction to review statutory and constitutional challenges to immigration detention). Respondent's position would allow the Executive to insulate detention from constitutional scrutiny simply by labeling it "discretionary." That is not the law. Jurisdiction-stripping provisions do not authorize unconstitutional detention, nor do they extinguish the judiciary's obligation to ensure that liberty

is not deprived without due process of law. This Court therefore retains jurisdiction to determine whether Petitioner's ongoing confinement comports with statutory limits and the Fifth Amendment.

III. PETITIONER POSSESSED A PROTECTED LIBERTY INTEREST IN HIS CONDITIONAL RELEASE

Freedom from physical restraint lies at the heart of the liberty protected by the Due Process Clause of the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That protection extends to all "persons" within the United States, regardless of immigration status. *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). The threshold question, therefore, is whether Petitioner possessed a liberty interest entitled to constitutional protection at the time of his re-detention. He did.

The Government repeatedly invokes Petitioner's prior unlawful entries. That history is not dispositive. The operative event for purposes of constitutional analysis is his most recent entry—when he presented himself for admission through the Government's CBP One process, was processed by DHS, and was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A). ECF No. 1 Following that parole, Petitioner timely applied for asylum, complied with ICE reporting requirements, and was granted employment authorization valid through April 2030. ECF No. 1 For nearly three years, he lived openly in the community under federal supervision. Exhibit B, *Photocopy of Work Authorization Card*; Exhibit C, *ICE Reporting Documents*.

This factual posture places Petitioner outside the narrow "threshold of entry" framework relied upon by the Government. *Shaughnessy v. Mezei*, 345 U.S. 206 (1953), *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537 (1950), and *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), concern individuals stopped at the border or subjected to expedited removal before establishing meaningful presence within the country. Those cases address the procedural protections available during the initial act of entry. They do not govern the

revocation of liberty after the Government has affirmatively exercised parole authority, released an individual into the interior, authorized employment for years, and permitted him to reside in the community under supervision.

Once paroled into the United States and permitted to live in the community, Petitioner's liberty—though conditional—was real. The Supreme Court has long recognized that conditional freedom constitutes a protected liberty interest. In *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), the Court explained that a parolee's liberty "includes many of the core values of unqualified liberty" and that its termination inflicts a "grievous loss." Likewise, in *Young v. Harper*, 520 U.S. 143, 147–49 (1997), the Court recognized that supervised release programs create constitutionally protected liberty interests because individuals are permitted to form the "enduring attachments of normal life."

Petitioner's release was neither symbolic nor fleeting. It was sustained and government-authorized. It included community supervision, regular reporting to ICE, and long-term employment authorization valid through April 2030. The Government permitted him to structure his life around continued liberty and to pursue protection under the asylum laws Congress enacted.

The constitutional concern is heightened by the Government's own course of conduct. DHS invited Petitioner to present himself for admission through the CBP One process. It processed him, paroled him into the United States, and permitted him to apply for asylum through the very statutory framework Congress established. Petitioner timely pursued that relief in reliance on the Government's authorization. Having allowed him to enter, to reside in the community for years, and to seek protection under the asylum laws, DHS cannot summarily extinguish that conditional liberty by detaining him and moving to pretermit his application as though the prior authorization carried no constitutional significance. Due process does not permit the Government to create a

lawful pathway, induce reliance upon it, and then revoke liberty without notice, individualized determination, or meaningful opportunity to be heard. Once the Executive affirmatively grants conditional freedom and invites participation in statutory relief processes, the resulting liberty interest cannot be withdrawn in summary fashion.

Accordingly, this case does not involve an individual detained at the border who has never been permitted to enter the national community. It involves a person whom the Government paroled into the United States, authorized to work, supervised in the community for years, and then re-detained. That distinction is constitutionally significant. Because Petitioner possessed a protected liberty interest at the time of his re-detention, the Due Process Clause applies in full force.

IV. MATHEWS v. ELDRIDGE CONFIRMS THAT PETITIONER'S DETENTION IS CONSTITUTIONALLY DEFICIENT

Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate procedural due process claims by balancing three factors: the private interest affected by the official action; the risk of erroneous deprivation under the procedures used and the probable value of additional safeguards; and the Government's interest, including the burdens that additional procedures would entail. Notably, the Government's opposition does not meaningfully engage with this framework. It does not analyze the three factors. It does not attempt to balance them. It simply asserts that detention is mandatory and therefore constitutional. That is not the *Mathews* inquiry.

First, Petitioner's private interest is fundamental. The Supreme Court has repeatedly held that freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner has been removed from his home, separated from his family, stripped of his employment, and confined in a detention facility. The Government does not dispute the severity of this deprivation. Nor could it.

Second, the risk of erroneous deprivation under the Government's approach is extraordinarily high. ICE previously determined that Petitioner merited parole and release into the community. The Government identifies no changed circumstances. It points to no new evidence suggesting flight risk or danger. Yet no individualized custody determination occurred prior to re-detention. No notice was provided. No opportunity to contest the basis for incarceration was afforded. There was no neutral decisionmaker review. Such summary detention creates precisely the type of arbitrary deprivation Mathews was designed to prevent.

Courts addressing materially similar facts have recognized that the absence of individualized procedures creates an intolerable constitutional risk. In *Rodriguez-Acurio,* the court applied *Mathews* and concluded that detention without individualized process violated due process. The same reasoning applies here. The Government offers no meaningful explanation for why the *Mathews* balance should come out differently in this case.

Third, although the Government has a legitimate interest in ensuring appearance at proceedings and protecting the community, it has not demonstrated how denying even minimal procedural safeguards advances those interests. Section 1226(a) already provides a mechanism for individualized custody determinations. Requiring the Government to articulate and support a basis for detention before a neutral decisionmaker imposes minimal administrative burden. The Government does not contend otherwise. It simply assumes that the label "arriving alien" ends the constitutional analysis. It does not.

When properly balanced, the *Mathews* factors weigh overwhelmingly in Petitioner's favor. The liberty interest is profound. The risk of arbitrary and erroneous deprivation under the Government's procedures is substantial. The administrative burden of providing process is minimal. The constitutional violation is therefore clear. Because Petitioner has already been

deprived of liberty without the process the Constitution requires, and because that deprivation continues each day he remains confined, immediate release is not merely appropriate — it is the only remedy that fully cures the ongoing constitutional violation.

CONCLUSION

Petitioner remains detained pending a non-final removal order with a timely appeal before the Board of Immigration Appeals. His detention cannot be sustained under 8 U.S.C. § 1225(b), and even if it could, due process prohibits the summary revocation of his conditional liberty without individualized safeguards. Habeas relief exists to remedy unlawful executive detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The Court should therefore grant the Petition and order Petitioner's immediate release or, at minimum, a prompt, constitutionally compliant bond hearing.

Respectfully submitted this 22nd day of February 2026.

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