UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

JENNY EULALIA FIGUEROA ROBLES *Petitioner*, v. CURTIS TAYLOR, et al. *Respondents*.	**PETITIONER'S SUPPLEMENTAL BRIEFING IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS** Case No. 3:26-CV-00231-LS

INTRODUCTION

This case is about the Government attempting to justify the lawless actions of its massive immigration enforcement agency after the fact, eviscerating due process in its wake. Like it has done to countless others in Minnesota, ICE targeted Petitioner Jenny Eulalia Figueroa Robles without a warrant and with no basis for doing so besides her appearance. Now, after being served with this action, ICE asserts that it needed no basis to justify detaining Ms. Figueroa Robles or revoking her parole. Instead, they insist that the mandatory detention statute applicable at the time she entered the United States four years ago should still apply with equal force and with no additional due process protections despite Ms. Figueroa Robles having lived freely for four years within the United States. Courts have held that post-hoc rationalizations for detention do not accord with due process when protected liberty interests are at stake. Here, where the Government provides no rationalization, it has certainly not followed the required

procedures to fulfill the promise of due process. The Court should refuse to be complicit in such ignorance of the Constitution and order the Government to return Ms. Figueroa Robles to the home she has known for years, where her children and family await her.

ARGUMENT

This brief demonstrates ICE's failure to properly revoke Ms. Figueroa Robles' parole, making it unlawful; highlights the procedural due process violations inherent in ICE's arrest-first-justify-later strategy; and finally argues for release, or in the alternative, a bond hearing with the Government holding the burden, as the appropriate remedy.

I. ICE unlawfully revoked Ms. Figueroa Robles' parole when it detained her.

As set out in Petitioner's petition, 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5 allow the government to revoke parole only where (1) the parole's purpose is served or (2) when humanitarian reasons and public benefit are no longer warranted. In either situation, the noncitizen must be provided notice containing the reasoning for the revocation and an individualized determination. [Dkt. 1, ¶¶ 51-53.]

Respondents do not dispute the facts of Ms. Figueroa Robles' grant of parole and recent arrest. They do not contest that Ms. Figueroa Robles was granted parole for the purpose of seeking asylum, and that her asylum application remains pending. [Dkt. 1, ¶ 57 (collecting cases finding parole's purpose was not served where petitioner's asylum application remained pending).] They do not deny that the government necessarily made a determination as to Petitioner's danger and flight risk when they granted her parole. *See* 8 C.F.R. § 212.5(b). They do not dispute that there have been no material changes in her circumstances—that Ms. Figueroa Robles has been living in the United States since then,

while attending all her immigration court hearings, pursuing her asylum application, even applying for additional status, and doing so all while remaining law-abiding. Nor do they deny that DHS made no individualized determination as to whether the purpose of Ms. Figueroa Robles' parole had been served or whether humanitarian reasons and public benefit continue to warrant her presence in the United States prior to her arrest. [Dkt. 1, ¶ 53 (collecting cases finding individualized review required before revocation of parole)]. They do not deny that humanitarian reasons weigh in favor of her continued parole. [Dkt. 1, ¶ 58 (collecting cases finding humanitarian reasons warranted continued parole when circumstances remained the same).] And they fail to contest that public benefit is served by parole still. [Dkt. 1, ¶ 59]. Finally, they do not dispute that DHS never provided Ms. Figueroa Robles with a written document from an authorized official containing the reasoning for her parole revocation. 8 C.F.R. § 212.5(a), (e).

The only exception to the written notice requirement is where a charging document is issued. 8 C.F.R. § 212.5(e)(2). A charging document is "the written instrument which initiates a proceeding before an Immigration Judge" and includes "a Notice to Appear" (NTA). 8 C.F.R. § 1003.13. Respondents filed an NTA dated May 14, 2022, one month after Ms. Figueroa Robles was initially granted humanitarian parole and issued an initial NTA. [*Compare* Dkt 7.1 *with* Exh. A]. This indicates that the Government was aware of Ms. Figueroa Robles' presence for years after terminating her parole yet chose not to detain her. Respondents offer no explanation for this delay in enforcement and expect the Court to sign off on ICE snatching Ms. Figueroa Robles off

the street at dawn, years after her parole was terminated and placing her in detention without any right to due process. The Court should refuse to do so.

These facts establish that the purpose of Ms. Figueroa Robles' parole has not been served, that her parole continues to be warranted by humanitarian reasons and public interest, that Respondents never made an individualized determination as to these factors, and that no other material change has occurred that would justify revocation of her parole. And even if service of the NTA adequately terminated her lawful parole period, her detention nearly four years later with absolutely no warning and no opportunity to be heard violated due process. As such, Ms. Figueroa Robles' parole has been unlawfully revoked in violation of the INA, agency regulations, and due process. Therefore, the minimum requirements for proper parole revocation and return to custody have not been met under the statute or regulations, Petitioner's arrest and detention are unlawful, and this Court should order her immediate release. *See Naveda v. Noem*, 2026 WL 196394, at *1 (W.D.Tex., Jan. 15, 2026) (ordering immediate release on finding an unlawful revocation of parole).

II. Ms. Figueroa Robles' detention violates her right to procedural due process.

Ms. Figueroa Robles has a protected liberty interest under the Due Process Clause after having built a life here for nearly four years, and her arbitrary detention does not comply with the procedural safeguards required under the Constitution. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[O]nce an [noncitizen] enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the

United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.").

a. *Thuraissigiam* and the entry fiction doctrine govern admission, not detention, and do not change Ms. Figueroa Robles' liberty interest and entitlement to due process

To the extent Respondents' argument against due process protections is based on considering Ms. Figueroa Robles to have never "entered" the United States due to the "entry fiction," it is misplaced. The Due Process Clause of the Fifth Amendment applies to "*all 'persons' within* the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. The entry fiction applies not to due process regarding detention, rather to due process regarding admission. ."). Indeed, the entry fiction "reflects the historical practice of allowing ships containing noncitizens to land in American harbors rather than staying at sea—largely to serve 'humanitarian ends' —while immigration authorities determined the admissibility of the noncitizens." *See Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908, at *12 n. 15 (D.D.C. Aug. 29, 2025) (citation omitted). Effectively, the entry fiction establishes that physical presence in the United States does not affect admission status, even when that presence is permitted by parole. It does not, however, purport to regulate detention or to restore an individual to any prior detention.

The Court in *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), relying on *Ekiu*, *Kaplan*, and *Tod*, explained that noncitizens "who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border,'" meaning they have "only

those rights *regarding admission* that Congress has provided by statute." *Id.* at 139-40 (emphasis added). The entry fiction cases cited by the Court in *Thuraissigiam* are inapposite here, as they concern parole's effect on admission, not detention. To start, *Ekiu v. United States*, 142 U.S. 651 (1892) considered, among other questions, the finality and constitutionality of an immigration inspector's determination of petitioner's "right to land in the United States." *Id.* at 663. In this context, the Court found that, while petitioner had been allowed to physically enter the country "pending the decision of the question of her right to land," this "left her in the same position, *so far as regarded her right to land* in the United States, as if she never had been removed from the steam-ship." *Id.* at 661 (emphasis added). Meanwhile, the Court in *Kaplan v. Tod*, 267 U.S. 228 (1925) considered the effect of parole on a noncitizens' eligibility for naturalization in deportation proceedings, which depended on whether petitioner had "entered the United States within the meaning of the law." *Id.* at 257, 259. Similarly, *Leng v. Barber*, 357 U.S. 185 (1958) answered "whether the granting of temporary parole somehow effects a change in the [noncitizen]'s legal status" in the context of eligibility for a form of deportation relief that required the petitioner to be "within the United States." *Id.* at 185, 188. Across these cases, the Court consistently treats parole and entry fiction as tied to admission.

Therefore, *Thuraissigiam* and the entry fiction doctrine address only due process rights as they relate to *removal proceedings*, not detention, and thus does not allow Respondents to avoid the question of whether they complied with due process when detaining Ms. Figueroa Robles despite her prior grant of parole. *See Lopez-Arevelo v.*

Ripa, 801 F.Supp.3d 668 (W.D.Tex., 2025) (finding that *Thuraissigiam* did not foreclose a previously released noncitizen's due process claims because the case dealt with deportation, not detention).

b. Ms. Figueroa Robles' liberty interest and the risk of erroneous deprivation of such liberty far outweigh the interest of and burden to the Government

Because Ms. Figueroa Robles possesses a protected liberty interest, she was entitled to procedural safeguards prior to being detained. When determining the appropriate process due, courts consider 1) "the private interest that will be affected by the official action," 2) "the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards," and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

First, Ms. Figueroa Robles has a significant private interest in remaining free from detention after having been granted parole and living freely in the United States. Ms. Figueroa Robles has lived in the United States for nearly four years after being granted humanitarian parole at the border. [Grundman Decl. Exh. 1, Petitioner's I-94]. In that time, she has built a life in the United States for herself and her three children. She has dutifully sought lawful immigration status by applying for asylum within a year of arriving and petitioning for a U visa after being the victim of domestic violence.

Ms. Figueroa Robles was granted humanitarian parole that allowed her to live freely, apply for lawful immigration status and work authorization, and allowed her to

"form the other attachments of normal life" in the four years since she first came to the United States, which puts her in a different position that someone just arriving in the United States. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Because she spent years "at liberty" in the United States before she was detained, and one of those years with the permission of the U.S. Government, "Petitioner possesses a cognizable interest in [her] freedom from detention." *Martin Ramirez v. Noem*, 2026 WL 381869, at *6 (D.N.M., Feb. 11, 2026). "This position finds support in the longstanding principle in the criminal context that due process requires a pre-deprivation hearing before the revocation of parole." *Lopez-Arevelo*, 801 F.Supp.3d at 685. Many district courts have extended this reasoning to the immigration context. *See, e.g., Lopez-Arevelo*, 801 F.Supp.3d at 685; *Garcia Domingo v. Castro*, 806 F.Supp.3d 1246, 1252 (D.N.M. Oct. 15, 2025); *Diaz v. Kaiser*, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (collecting cases); *accord M.S.L. v. Bostock*, 2025 WL 2430267, at *8 (D. Or. Aug. 21, 2025) ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody...") (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)); *Rosado v. Figueroa*, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) (same).

Second, the risk of erroneous deprivation in this case is high, in particular because ICE "made a unilateral decision" to detain Ms. Figueroa Robles without any reliable basis and only because of her appearance. *Garcia Domingo*, 806 F.Supp.3d at 1252. ICE's behavior in this case aligns with tactics employed during "Operation Metro Surge" in Minneapolis involving masked, unidentified individuals in unmarked vehicles holding

out to be ICE agents but largely refusing to identify themselves or present warrants, physically assaulting pedestrians, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody, regardless of the constitutionality of their actions. *See, e.g.*, Compl., *Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. Dec. 17, 2025). The risk of erroneous deprivation is significant in such a context where lawless conduct is the norm. Additionally, Respondents have failed to satisfy the revocation requirements of 8 U.S.C. § 1182(d)(5) and 8 C.F.R. § 212.5(e) or provide a true opportunity to be heard or submit evidence, making the risk of erroneous deprivation high.

As for the third factor, Ms. Figueroa Robles' strong liberty interest and the high risk of erroneous deprivation outweigh "the Government's comparatively minimal burden to justify custody." *Pu Sacvin v. De Anda-Ybarra*, 2025 WL 3187432, at *3 (D.N.M. Nov. 14, 2025). And as stated above, the Government has no significant interest in Ms. Figueroa Robles' continued detention given that the parole's purpose has not been served and humanitarian reasons and public benefit continue to justify her presence in the country. Respondents have asserted no particular interest other than the statutory grounds for detention. In the absence of any assertion by Respondents as to the Government interest in this case, the Court could rely on the Government's general interest to ensure noncitizens continue to appear for their removal proceedings and pose no danger to the community. However, in granting Ms. Figueroa Robles' parole, the Government determined already that she was not a danger or a flight risk, and there have been no material changes since then. *See Lopez-Arevelo*, 801 F.Supp.3d at 686-87; *see also*

Saravia v. Sessions, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd* 905 F.3d 1137 (9th Cir. 2018). As such, the Government interest does not outweigh Petitioner's interest and the risk of erroneous deprivation, and the arbitrary detention of Petitioner violates due process.[1]

III. Ms. Figueroa Robles is entitled to immediate release, or in the alternative, a bond hearing with the burden on the Government.

Unlawful revocation of parole is remedied via immediate release. *Naveda v. Noem*, 2026 WL 196394, at *1 (W.D.Tex., Jan. 15, 2026). And because Ms. Figueroa Robles has a due process expectation of not being arbitrarily detained, her right to due process was violated and release the appropriate remedy. Here, the Government broke its promise to protect all people within its jurisdiction from deprivation of liberty "without due process of law," a promise which the Supreme Court upheld as early as 1886. *Yick Wo v. Hopkins*, 118 U.S.356, 369 (1886) (citing U.S. Const. amend. XIV). This violation of due process warrants immediate release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention"). Other Courts in this District and across the country have, particularly in recent weeks, granted release rather than bond. *See Lahera Lopez v. Noem*, 2026 WL 198237 (W.D.Tex., Jan. 22, 2026) (granting immediate release); *Naveda*, 2026 WL 196394 (same); *Munoz Sanchez v. Warden*, 2026 WL 475341 (D.N.M. Feb. 19, 2026) (granting immediate release after finding petitioner's detention violated due process); *Barea Leyva v. Ortiz*,

[1] Respondents do not address or refute Petitioner's APA claims. As discussed in her writ, Respondents' purported revocation of Petitioner's parole violated the APA as arbitrary and capricious and under the *Accardi* doctrine because they failed to follow required procedure for revocation, including the requirements of 8 U.S.C. § 1182(d)(5) and 8 C.F.R. § 212.5(e). Dkt. 1, ¶¶ 75-78.

2026 WL 457331 (D.N.M. Feb. 18, 2026) (same); *Alex H. v. Bondi*, 2026 WL 381688 (D. Minn. Feb. 11, 2026) (granting release); *Angel Rogelio A.S. v. Bondi*, 2026 WL 381847 (D. Minn. Feb. 11, 2026) (same).

If the Court does not agree that release is appropriate, Petitioner is entitled to a bond hearing at minimum, with the burden on the Government to justify continued detention. *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). When a bond hearing is ordered because of unlawful detention as here, the burden of proof should be on the government to prove by clear and convincing evidence that continued detention is warranted. *See, e.g., Lopez-Arevelo*, 801 F.Supp.3d at 688 (ordering a bond hearing at which the Government bears the burden of proving petitioner is a danger or a flight risk by clear and convincing evidence); *Vieira v. De Anda-Ybarra*, 806 F. Supp. 3d 690 (W.D. Tex. 2025) (same); *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) (same); *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), *R. & R. adopted*, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025) (same). The Court should order Respondents schedule a bond hearing within a week. *See, e.g., Hernandez-Fernandez*, 2025 WL 2976923, at *11 (ordering a bond hearing within 10 days). The Court should further order that in the hearing, the Government bears the burden of establishing a need for continued detention by clear and convincing evidence.

CONCLUSION

For these reasons, Petitioner respectfully asks the Court to order her immediate release or, in the alternative, to order that a bond hearing on the merits take place immediately with the burden on the government.

Dated: February 26, 2026

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant, the undersigned certifies and states that the true and correct copies of this Supplemental Briefing in Support of Petition for Writ of Habeas Corpus will be served upon all counsels of record via the online CM/ECF system, on or before February 26, 2026.

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