Jana Junuz, Esq.
Law Office of Junuz and Kaurs, P.C.
103-11 101st Avenue
Ozone Park, NY 11416
516-806-2122
jjunuzlaw@gmail.com

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By ECF
Honorable Diane Gujarati
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Ali v. Charles et al. 26-cv-0578-DG

Dear Judge:

Petitioner Imran Ali respectfully submits this reply in further support of his petition for a writ of habeas corpus. The Petitioner maintains that he is subject to discretionary detention under 8 U.S.C. § 1226(a) because: i.) he was paroled upon entry into the United States; ii.) was released into the interior for more than twelve (12) months; iii.) was placed into removal proceedings before an Immigration Judge after parole; iv.) remained out of custody even after his parole expired; v.) the Department of Homeland Security (DHS) issued a faulty Form I-200 civil warrant for his arrest pursuant to 8 U.S.C. § 1226(a); and, vi.) the arresting ERO Officer engaged in a discretionary INA § 236(a) custody determination finding the Petitioner was not a danger to the community nor a flight risk, before detaining the Petitioner nonetheless.

However, even if this Court were to conclude that Petitioner is detained pursuant to 8 U.S.C. § 1225, the Due Process Clause independently requires an individualized custody determination. The Second Circuit has made clear that civil immigration detention must be accompanied by adequate procedural safeguards, including a hearing to assess flight risk and danger. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020) (holding that due process requires "an individualized determination as to whether detention is necessary" to mitigate risk of flight or danger to the community). The court emphasized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause," and that detention without adequate procedural protections violates constitutional guarantees. Id. at 849, 854–55 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)).

I. ARGUMENT

a. Case Law Supports Mr. Ali's Argument for Habeas Relief

Multiple courts in this District have concluded that similarly situated petitioners are detained under § 1226(a), not § 1225(b). The government asks this Court to disregard those decisions. Its position is inconsistent with the text of the detention statutes and with due process. Courts in this Circuit have held that this posture is governed by § 1226(a):

In *Qasemi v. Francis*, No. 25-CV-10029, 2025 (S.D.N.Y. Dec. 17, 2025), the Petitioner was paroled into the United States pursuant to an Interim Notice Authorizing Parole under §212(d)(5)(a). *Id* at pp. 2-3. Petitioner Qasemi was also found *not* to be a flight risk or a danger to the community. *Id. Emphasis added.* Petitioner Qasemi continued to check in with ICE as was required by the terms of his release, until he inadvertently missed one scheduled check-in appointment. *Id.* Approximately one (1) year later, Petitioner Qasemi was apprehended by ICE when he appeared at 26 Federal Plaza following his ISAP appointment. *Id.* at pp. 4. A Form I-200 Warrant for Alien was issued for his arrest. Id. at pp 4; 26.

During habeas proceedings in *Qasemi v. Francis*, the Government argued that Petitioner Qasemi was subject to mandatory detention because his parole terminated approximately one month before he was re-detained.[1] *Id.* at pp. 10. The Government maintained that Petitioner was subject to mandatory detention and that additional notice was not required before he was re-detained. *Id.* The Government also argued that the Petitioner's status reverted to the same status as he had upon entry into the United States 18+ months prior. *Id.* After careful review, the Court concluded that under §1225(b), Petitioner Qasemi was subject to mandatory detention *only if* he is "arriving" in the United States and since the Court concluded that Qasemi was not "arriving" he was outside of §1225(b) and thus subject to §1226. *Id.* at pp. 10-12, *Emphasis Added.* The Court in Qasemi relied on the analysis from *Tumba v. Francis*, 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025) which held that a noncitizen already physically present in the United States, irrespective of whether they presented themselves at the border, does not qualify as "seeking admission" because they are already in the country. *Id.* at pp 3-4. In reaching that conclusion, the Court cited to the fact that the DHS has long understood the term "applicant seeking admission" to be synonymous with "arriving alien." *Id.* at pp. 4 (citing *Lopez Benitez v. Francis*, 795 F.3d 475, 489 (S.D.N.Y. 2025)). Thus, noncitizen paroled into the country—i.e., a noncitizen residing in the United States—is not an arriving alien. *Qasemi* at pp. 14.

Similar to the present case, the Court in *Qasemi* was also concerned with due process violations stemming from situations where a person was paroled and then held under mandatory detention after a long period of liberty, stating:

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[1] Petitioner Qasemi's parole was issued on November 6th 2024, terminated on November 6, 2025, and he was arrested at Federal Plaza on December 2, 2025. *Qasemi v. Francis*, at pp. 3-4.

> DHS released Qasemi into the country for a period of one year. There is no evidence that the CBP officer based the one-year parole period on any determination that the risk-reward calculus would change after one year. Nor has any Government official with authority articulated that the humanitarian reasons and public benefit that supported Qasemi's release no longer exist. And the Government explicitly forswears any obligation to show that Qasemi presents a danger to the community or risk of flight. Nor is it likely that the Government could do so—Qasemi has led a law-abiding life. He has made every appearance required of him by the immigration court and USCIS, even when it would have been apparent that his appearance might have led to his arrest. Yet, under the Government's view, it had the right to arrest and detain Qasemi even if doing so would serve no governmental interest—which it conceded it could not at the hearing on this Petition. Its argument cannot be reconciled with the notion that even a person living in the United States without documents enjoys the right to due process.

Qasemi at pp. 28

The procedural posture of the present case closely mirrors that of *Qasemi*. Here, the Petitioner was also paroled and re-detained approximately one month after his parole expired, pursuant to a Form I-200 arrest warrant, and despite not being a flight risk or a danger to the community. The Court clearly and unequivocally held that Qasemi was not subject to mandatory detention under §1225, granting his habeas corpus petition and ordering immediate release from detention. *Qasemi* at pp. 30.

In *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065 (E.D.N.Y. Nov. 28, 2025), the court found that the petitioner was paroled into the country in 2021, resided in New York for several years, worked, gave birth to a U.S.-citizen child, and complied with immigration appointments before being arrested following a credible-fear interview in October 2025. *Id* at pp. 4-7. The court concluded that, despite the government's reliance on § 1225(b), the petitioner's detention fell within the discretionary framework of § 1226(a) and that no individualized determination of flight risk or danger had ever been made. *Id* at 54-55. Much like the Petitioner in the present case, the Court in *Rodriguez-Acurio* also relied on the balancing factors laid out in *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). *Rodriguez-Acurio* at pp. 59. The Court held that since Petitioner Rodriguez-Acurio was afforded no pre-deprivation notice or opportunity to be heard, her detention violated her right to procedural due process. *Id.* at pp. 59. The record unequivocally established that Rodriguez-Acurio was neither a flight risk nor a danger to the community and therefore should have been discretionarily released under Section 1226(a). *Id.* at pp. 60.

Here, Petitioner's case presents even stronger equities. Like the Petitioner in *Rodriguez-Acurio*, he was paroled into the United States and lived in the community without incident before being re-detained; however, here the government's own evidence affirmatively shows that Mr. Ali is neither a danger nor a flight risk. Under the reasoning of *Rodriguez-Acurio*, where a noncitizen

has been paroled and allowed to reside in the community for an extended period, the government may not rely on § 1225(b) to impose mandatory detention, and due process requires at least an individualized custody determination. See also *Velasco Lopez v. Decker*, at 853–55.

In *Mohd v. Noem*, No. 2:26-CV-680 (E.D.N.Y. Feb. 9, 2026), the petitioner entered the United States in February 2022, passed a credible-fear screening, and was paroled into the country for one year, after which he lived continuously in the interior for close to four (4) years and appeared for immigration-court proceedings. *Id.* at pp. 4-5. January 2026, ICE arrested and detained him, asserting that he was subject to mandatory detention under INA §1225(b). *Id.* at pp. 5. The Eastern District of New York rejected that position, holding that §1225 did not apply because he was not an "arriving alien" and had previously been paroled into the United States; instead, his detention fell under §1226(a). *Id.* Applying the *Mathews v. Eldridge* balancing test, the court found that detention without notice, a hearing, or any individualized determination of flight risk or danger violated the Fifth Amendment, and it granted the habeas petition, ordered immediate release, and enjoined DHS from re-detaining him under §1225 absent changed circumstances. *Id.* at pp. 6.

Like the petitioner in *Mohd*, Mr. Ali was also released into the interior and lived in the community for a substantial period before being re-arrested by ICE. In both cases, the government is attempting to characterize the detention as mandatory under §1225 despite the petitioner's prior parole and extended presence in the United States. Under *Mohd*, that factual posture places the detention within the discretionary §1226 framework and triggers due-process protections, including the right to an individualized custody determination. Thus, Mohd supports the argument Mr. Ali cannot be treated as a §1225 arriving alien after release into the interior and that continued detention without a bond hearing violates the Fifth Amendment.

b. The Government Relies of Case Law Distinguishable from Mr. Ali's Case.

The Government in this case relies on *Lin v. Almodovar*, 25-cv-9639 (S.D.N.Y. Dec. 22, 2025) to justify its position, however the present case is distinguished from *Lin* in several important ways. In *Lin*, the Petitioner apparently "confused the statutory scheme governing his detention" and thereafter conceded to the fact that he was subject to mandatory detention under § 1225 and conceded that he was not entitled to a bond hearing. *Id.* at pp. 6. The Petitioner in *Lin* thereafter only challenged the "process by which his parole was revoked." *Id.* In the present case, the Petitioner is not conceding to his detention under § 1225 nor that he is not entitled to bond. The Petitioner in the present case is also challenging his detention as a violation of due process, relying on the *Mathews v. Eldridge* balancing test which clearly leans in his favor.

Additionally, unlike the present case, in *Lin* there was no indication of a defective warrant or procedural irregularity affecting notice or process. The Court in *Lin* did not consider the balancing test of *Mathews v. Eldridge* and did not mention it in Its decision at all. Mr. Ali alleges that his re-arrest was executed under a facially defective and procedurally deficient I-200 warrant, that he lacked proper notice or language access, and that notwithstanding that issue, the Government

evidence alleges Mr. Ali was not a flight risk or a danger to community. As such, the present case is distinguished from *Lin v. Almodovar*.

The Government in this case further relies on *Ramos Funes v. Searls*, 19-cv-6332 (W.D.N.Y. April 23, 2020) to justify its position but again, the present case is distinguished from *Ramos Funes* in very significant ways.

In *Ramos-Funes v. Searls*, the district court denied habeas relief to a petitioner whom DHS treated as an arriving alien following his return from abroad and parole for deferred inspection. The petitioner, a lawful permanent resident since infancy, had traveled to Honduras and was stopped upon his attempted return due to criminal convictions; he was paroled for deferred inspection but never formally admitted. *Id.* at pp.2. DHS later charged him as inadmissible based on crimes involving moral turpitude and multiple criminal convictions, and he was detained during removal proceedings. *Id.* The immigration judge and BIA determined that, as an arriving alien, he was ineligible for bond, and the district court agreed, holding that detention under 8 U.S.C. § 1225(b)(2)(A) was mandatory and that his only possible release mechanism was discretionary parole rather than a bond hearing. *Id.* at pp. 7. The court relied on the traditional principle that arriving aliens may be detained at the threshold of admission without individualized bond review.

That reasoning in *Ramos-Funes* does not control here. Unlike the petitioner in *Ramos-Funes*, who was apprehended at the port of entry after returning from abroad and was treated as an arriving alien from the outset, the petitioner in the present case was affirmatively paroled into the United States and lived in the community for approximately one year before being re-detained. This extended period of liberty materially alters the *Mathews v. Eldridge* due-process calculus. The private liberty interest here is substantially greater than in *Ramos-Funes*, because the government's own records indicate that Mr. Ali was neither a flight risk nor a danger to the community, and the arrest warrant underlying the re-detention was defective—facts not present in *Ramos-Funes*. These distinctions significantly increase the risk of erroneous deprivation and diminish the government's interest in categorical detention.

Accordingly, while Ramos-Funes involved a prototypical arriving-alien detention at the threshold of admission with criminal inadmissibility grounds, the present case involves a parolee who had already been living in the community for an extended period without incident. Under the Second Circuit's due-process jurisprudence requiring meaningful, individualized custody review when detention becomes prolonged, these materially different facts warrant relief notwithstanding the outcome in *Ramos-Funes*. See, e.g., *Velasco Lopez v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020) (holding that due process requires an individualized bond hearing where detention becomes unreasonably prolonged).

c. This Court Is Not Bound by the Recent Fifth Circuit Case and Should Not Consider It as Persuasive

The present case is distinct from that of *Buenrostro-Mendez v. Bondi* (5th Cir. 2026) and should therefore not be considered by this Court. Petitioners were two Mexican nationals - one entered without inspection in 2009, the other in 2001. *Id.* at pp. 6. DHS encountered them in 2025 and detained under § 1225(b)(2)(A). *Id.* at 6-7. The Immigration Judges denied bond to both based on jurisdiction. *Id.* Both Petitioners conceded that they were "applicants for admission" and as such, subject to § 1225 detention. *Id.* at pp. 2. In Its holding the Fifth Circuit Appeals Court adopted the Government's argument in a 2-1 decision holding that noncitizens present in the United States without admission are "applicants for admission" under § 1225 and that § 1225(b)(2) mandates detention without bond. *Id.*

Buenrostro-Mendez is neither binding in this Circuit nor factually comparable to the present case. *Buenrostro-Mendez* involved individuals who entered without inspection, treated as recent unlawful entrants, and were placed into mandatory detention. Here, by contrast, Mr. Ali was paroled into the United States and permitted to reside in the community, only to be detained more than one year later without any meaningful, individualized custody determination. That posture materially distinguishes his case from *Buenrostro-Mendez*. Additionally, the Fifth Circuit did not reach any due process findings, which is what Mr. Ali is raising here.

Second, the Second Circuit has repeatedly emphasized that once a noncitizen is living in the community and later subjected to prolonged civil detention, the Constitution requires meaningful procedural safeguards, including an individualized bond hearing. See *Velasco Lopez v. Decker*, at pp. 855–56 (2d Cir. 2020) (holding that prolonged detention without a bond hearing violates due process).

Third, the parole-and-re-detention posture here underscores the due- process violation. Unlike the petitioners in *Buenrostro-Mendez*, Mr. Ali was affirmatively authorized to enter and remain in the country on parole, lived in the community for an extended period, and was later detained without any individualized determination of flight risk or danger. The Second Circuit has made clear that such prolonged, post-release civil detention without procedural protection raises serious constitutional concerns and cannot be sustained.

Accordingly, *Buenrostro-Mendez* is both non-binding and factually distinguishable, and it cannot displace the Second Circuit's controlling due process framework, which requires an individualized bond hearing under the circumstances presented here.

d. Petitioner's Claim Does Not Rely on Equitable Estoppel

The government devotes a portion of its submission to arguing that it cannot be equitably estopped from enforcing the immigration statutes. That argument is misplaced because petitioner's claim does not depend on equitable estoppel. Equitable estoppel is an extraordinary doctrine that applies against the federal government only in the most serious circumstances and requires a showing of affirmative misconduct and detrimental reliance. *Rojas-Hayes v. INS*, 235 F.3d 115, 126 (2d Cir. 2000); *Heckler v. Cmty. Health Servs.*, 467 U.S. 51, 60–61 (1984). Petitioner does not seek to estop the government from enforcing the law, nor does he rely on any theory of affirmative misconduct.

Instead, petitioner raises a straightforward statutory and constitutional claim: he was arrested in the interior of the United States after living at liberty, and ICE invoked arrest authority under 8 U.S.C. § 236. Accordingly, the government's discussion of estoppel is beside the point and does not resolve the statutory and due-process issues presented by the petition.

II. CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of habeas corpus and order Respondents to immediately release the Petitioner.

Respectfully submitted this 12th day of February, 2026

/s/ Jana Junuz

Jana Junuz, Esq.

Law Office of Junuz and Kaurs, P.C.

103-11 101st Ave.,

Ozone Park, NY 11416

516-806-2122

jjunuzlaw@gmail.com