

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DANIEL HERRERA ALDANA,

Petitioner,

v.

CHARLOTTE COLLINS, in her official
capacity at Warden of T. Don Hutto Detention
Center, et. al.,

Respondents.

Civil Action No. 1:26-cv-00335-RP

Federal Respondents' Supplemental Brief Regarding Parole Termination

Federal Respondents file this supplemental brief in response to the Court's order dated February 27, 2026. *See* ECF No. 9.

I. Petitioner Is an Arriving Alien Subject to Mandatory Detention.

As a threshold issue, it is uncontested that Petitioner is barred both by statute *and regulation* from seeking a bond from an immigration judge, because **he is an arriving alien**. *See* ECF No. 1-2 at 6 (Notice to Appear (NTA) charging Petitioner as an arriving alien); 8 C.F.R. § 1003.19(h)(2)(i); *see also Goguev v. Noem*, et al, SA-25-CA-01593-XR (W.D. Tex. Jan. 13, 2026) (Rodriguez, J.) (denying habeas petition to an arriving alien). Arriving aliens are applicants for admission, and Fifth Circuit precedent confirms that an applicant for admission is statutorily subject to mandatory detention. *Buenrostro v. Bondi*, No. 25-20496, ---- F.4th ---- 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). *See* ECF No. 1 ¶¶ 5, 56, 84 (conceding that he is an arriving alien and that immigration judges lack authority to redetermine custody for arriving aliens, including those previously granted parole); No. 6 at 1-2.

Petitioner is a native and citizen of Cuba who applied for admission to the United States on October 13, 2023, at Calexico, California. ECF No. 1-2 at 6. At the time of his entry, he did not possess a valid travel document, so the Department of Homeland Security (DHS), in the exercise of discretion, placed him into removal proceedings and paroled him into the United States for two years, pending those proceedings. *See* ECF No. 1-2 at 4, 6–9, 20; *see also* 8 U.S.C. § 1182(d)(5).

II. DHS Properly Terminated Parole and Constructively Notified Petitioner by Publication.

Petitioner challenges the constitutionality of his detention because he claims that the government did not adequately notify him of his parole revocation prior to taking him into custody in 2025. *See* ECF No. 1 ¶¶ 1–4, 21–22, 24. Petitioner’s claims lack merit. *See Lopez Jaimes v. Lyons, et al*, No. 26–CV–686–MA (W. D. Tex. Feb. 17, 2026) (Alvarez, J.) (finding no due process violation where applicant for admission with expired parole was taken back into custody on a mandatory basis during removal proceedings).

On March 25, 2025, DHS published in the Federal Register the parole termination notice for nationals of Cuba, Haiti, Nicaragua, and Venezuela (“CHNV”). *See* <https://www.federalregister.gov/documents/2025/03/25/2025-05128/termination-of-parole-processes-for-cubans-haitians-nicaraguans-and-venezuelans> (last accessed Mar. 3, 2026). As provided in Section VI:

This **Federal Register** notice serves as notice of the termination of the CHNV parole programs and satisfies the requirement that DHS provide written notice upon the termination of parole. *See* 8 CFR 212.5(e)(2)(i) (“ . . . Upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, *parole shall be terminated upon written notice to the alien. . . .*” (emphasis added)). For the reasons set forth above, the Secretary has concluded that neither urgent humanitarian reasons nor significant public benefit warrants the continued presence of aliens paroled under the CHNV programs and **the purposes of such parole therefore have been served** (emphasis added). This notice accordingly serves as written notice to CHNV parolees.

DHS has determined that publication of this notice in the **Federal Register** is legally sufficient notice to all interested or affected persons regardless of actual knowledge or hardship resulting from ignorance. *See* 44 U.S.C. 1507; *Friends of Sierra R.R., Inc. v. I.C.C.*, 881 F.2d 663, 667-68 (9th Cir. 1989); *see also Fed. Crop Ins. Corp. v. Merrill*, 332 U.S. 380, 385 (1947) (“Congress has provided that the appearance of rules and regulations in the **Federal Register** gives legal notice of their contents.”).

DHS finds **Federal Register** publication of the decision to terminate existing grants of parole to be the most practicable approach in light of the size of the affected population and potential noncompliance with change-of-address reporting requirements. *See* 8 U.S.C. 1305; 8 CFR 265.1. **Because all CHNV parolees should have a USCIS online account and all processing under these parole programs took place electronically, DHS will also provide individual notice to each parolee through their USCIS online account.** *Cf., e.g.,* 8 CFR 103.2(b)(19)(ii)(B) (“For applications or petitions filed electronically, USCIS will notify both the applicant or petitioner and the authorized attorney or accredited representative electronically of any notices or decisions. . . .”). This notice, and the individual notice through the USCIS online account, each independently constitute “written notice to the alien” under 8 CFR 212.5(e)(2)(i).

Termination of Parole Processes for CHNV, 90 FR 13611-0 (emphasis added). Stated plainly, DHS constructively notified Petitioner through Federal Registry that his parole under the CHNV program was terminated, including the basis for that termination:

“... the Secretary has concluded that neither urgent humanitarian reasons nor significant public benefit warrants the continued presence of aliens paroled under the CHNV programs *and the purposes of such parole therefore have been served.*”

Id. (emphasis added).

Indeed, Petitioner acknowledges that news outlets reported by April 5, 2025, DHS had begun sending termination notices of parole documents. ECF No. 1 ¶ 27. While Petitioner claims broadly that he was never notified of his parole termination, he attaches to his petition a copy of a screen capture of *a government website* confirming that his parole terminated April 18, 2025. *Id.* ¶¶ 28, 49; ECF No. 1-2 at 20. The screen capture does not contain a date of capture, nor is it clear how or when Petitioner accessed it.

As the Federal Register notes, Petitioner should have also received separate independent written notice directly from USCIS, either through his online account or by mail. Petitioner does not explain whether he accessed his online USCIS account in 2025, and if he did, whether it contained any notice of termination. He also does not confirm that he has maintained his current address on file with USCIS since the time he was paroled in 2023. Any official notice, printed on Form I-797 paper, would have been mailed to him at the address on file.¹ *See* 8 U.S.C. § 1305; 8 CFR § 265.1; *compare* ECF No. 1-2 at 6 (NTA showing address in Round Rock when parole was granted in 2023) *with* 11 (I-485 receipt showing address in Austin in January 2025).

Regardless, Petitioner's parole termination was proper, and he makes no viable claim that the Federal Register's notice was impermissible or otherwise inadequate. *See Doe v. Noem*, 152 F. 4th 272, 285–91 (1st Cir. 2025) (vacating the lower court's stay of revocation of previously granted parole under CHNV program); *see also Palacios v. Dep't of Homeland Sec.*, 434 F.Supp.3d 500 (S.D. Tex. 2020). Regardless, Petitioner must exhaust this due process argument in his removal proceedings, because whether parole was properly revoked is a factual inquiry related to removability. *See, e.g., Bouchikhi v. Holder*, 676 F.3d 173, 180 (5th Cir. 2012). In any event, to establish a due process violation, an alien must make an initial showing of substantial prejudice to the circuit court by showing that the alleged violation affected the outcome of his removal proceedings. *See Awolaja v. Bondi*, 2025 WL 2952795 at *1 (5th Cir. Oct. 20, 2025)

¹ A Form AR-11 is required any time an alien changes addresses and must be linked to any relevant benefit application if filed by mail. *See* <https://www.uscis.gov/ar-11> (last accessed Mar. 3, 2026). Given the short turnaround for this response, the undersigned AUSA has been unable to review the alien file or obtain a copy of any notice that would have been mailed or otherwise provided directly to Petitioner.

(citing *Ogunfuye v. Holder*, 610 F.3d 306–07 (5th Cir. 2010)). Given that his removal proceedings are ongoing, Petitioner cannot make this required showing.

III. Due Process Challenges Not Override the INA’s Bar to Judicial Review in District Court of DHS’s Discretionary Decisions.

Finally, Petitioner complains that his detention during removal proceedings is unlawful because he is still waiting for USCIS to adjudicate his adjustment of status application, and he has no recourse to challenge the pace of that adjudication. *See, e.g.*, ECF No. 1 ¶¶ 93–108. Petitioner’s arguments, while understandable, were anticipated by the Supreme Court without action and have been foreclosed in the Fifth Circuit.

In *Kewayfati v. Bondi*, 165 F.4th 342, 349 (2026), the Fifth Circuit very recently reaffirmed prior precedent and affirmed the lower court’s dismissal of the suit for lack of jurisdiction, because the challenged USCIS delays and subsequent denials were not final agency actions subject to review under the Administrative Procedure Act (APA). *Id.* The Fifth Circuit specifically reviewed the “reality” that the Government’s enforcement decisions in removal proceedings “could result in a period of inaction” that places certain aliens in a “limbo state,” but found that problem is one “for Congress to fix....” *Id.* at 351–52. “Federal courts are not a fallback forum for disappointed applicants midstream in the administrative process.” *Id.*

Similarly, and perhaps more closely aligned with the facts of this case, the Fifth Circuit reviewed an arriving alien’s claim that because he could not seek review of his denied adjustment of status application in removal proceedings, judicial review in district court was his only recourse. *Momin v. Jaddou*, 113 F.5th 552, 557 (2024). The Fifth Circuit disagreed, finding that the INA precluded judicial review, even where the alien could not seek agency review of the decision by an immigration judge. *Id.* at 559–60. The Court, citing Justice

Gorsuch's dissent in *Patel v. Garland*, 596 U.S. 328 (2022), acknowledged that this lack of recourse may be "cruel but legally compelled." *Id.* at 560.

Moreover, the INA exception for judicial review of certain constitutional claims applies only in the circuit court upon petition for review of a final order of removal. *See Xia v. Bondi*, 137 F.4th 85, 90, 93 (2d Cir. 2025) (following *Momin*, noting the consensus among the majority of the circuit courts, and rejecting 8 U.S.C. § 1252(a)(2)(D) as an exception to the jurisdictional bar, to affirm the lower court's dismissal of a complaint seeking review of a denied USCIS adjustment of status application); *see also Bouchikhi*, 676 F.3d at 180.

In any event, an alien's interests in adjustment of status proceedings are not protected liberty interests that can support a Due Process claim. *Mendias-Mendoza v. Sessions*, 877 F.3d 223, 228 (5th Cir. 2027); *Ahmed v. Gonzalez*, 447 F.3d 433, 440 (5th Cir. 2006). Rather than restate them, Respondents reincorporate their due process arguments by reference. *See* ECF No. 6 at 6–17. Because Petitioner has not shown that his statutorily mandated detention during removal proceedings is unconstitutional as applied to him, Respondents urge this Court to deny this petition in its entirety.

IV. Petitioner Has Been Ordered Removed by an Immigration Judge.

Even if this Court were to order a bond hearing regarding flight risk and danger, Petitioner is a flight risk with a pending assault charge stemming from a domestic dispute. *See* ECF No. 1-2 at 24. On February 24, 2026, Petitioner appeared for his removal hearing after having been granted no fewer than 10 continuances yet still failed to file with the immigration judge any application for relief from removal. *See* Ex. A (Removal Order). The immigration judge deemed all relief abandoned and ordered him removed to Cuba. *Id.* Petitioner reserved appeal of that decision, which is due at the Board of Immigration Appeals (BIA) by March 26, 2026. *Id.* His removal order,

therefore, is not yet final, and he remains detained on a mandatory basis under 8 U.S.C. § 1225(b)(2)(A).²

Even if Petitioner were entitled to a discretionary flight risk analysis in a bond proceeding, where an immigration judge has denied all substantive relief from removal, the scale tips heavily against discretionary release on bond, as it calls into question the alien's likelihood of compliance with any removal order once it becomes final. *See, e.g., Johnson v. Guzman Chavez*, 594 U.S. 523, 544 (2021) (finding that aliens "who have not been ordered removed are less likely to abscond" but those who have been ordered removed pose a higher flight risk). Due process does not entitle Petitioner to a bond hearing while he pursues his appeal. *See Perez Sanchez v. Vergara, et al*, No. 5:26-CV-626-MA (W.D. Tex. Feb. 24, 2026) (denying habeas petition to alien seeking administrative review of a removal order, finding that no substantive due process right to release attaches and that the sole procedural protection afforded is the review of the underlying removal order itself); *see also Menjivar Araujo v. Bondi, et al*, No. 26-CV-237-ADA-SH (W.D. Tex. Mar. 2, 2026); *Herrera Cordoba v. Bondi, et al*, No. 1:26-CV-238-ADA-SH (W.D. Tex. Mar. 2, 2026); *Moya Gonzalez v. Collins, et al*, No. 1:26-CV-176-ADA-ML (W.D. Tex. Feb. 26, 2026); *Lechon Cotachachi v. Bondi, et al*, No. 1:26-CV-236-ADA (W.D. Tex. Feb. 26, 2026) (Albright, J.) (due process does not entitle applicant for admission to a bond hearing).

V. Conclusion

This habeas petition should be denied in its entirety, either for lack of jurisdiction or on the merits, as Petitioner has not made any showing that his statutorily mandated detention is unlawful.

² A timely appealed removal order is not final unless or until the BIA affirms the order. 8 U.S.C. § 1101(a)(47)(B)(i).

Respectfully submitted,

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