IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DAMIR VALIKHODJAEV,
Petitioner,

CIVIL ACTION

v.

No. 2:26-cv-00970-JMG

JAMAL L. JAMISON, in his official capacity as Facility Administrator, Federal Detention Center Philadelphia,
Respondent.

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Damir Valikhodjaev, by and through undersigned counsel, respectfully submits this Reply to Respondent's Response in Opposition (ECF No. 7), filed February 23, 2026. Respondent's central theory—that Petitioner was initially processed for expedited removal under 8 U.S.C. § 1225(b)(1), paroled under § 1182(d)(5), and upon parole termination "returned" to mandatory detention under § 1225(b)(1)—has been squarely and repeatedly rejected by this Court and across this District. Respondent concedes in footnote 2 of its Response that no fewer than **six judges** on this Court have rejected this very argument, including ***this Court*** in *Vazquez-Diaz v. Rose*, No. 26-cv-342 (E.D. Pa. Feb. 10, 2026) (Gallagher, J.). This Court has already decided the dispositive legal question in this case. The proper remedy is not a bond hearing—which the Government has shown it will undermine—but Petitioner's immediate release.

ARGUMENT

I. THE COURT SHOULD ORDER PETITIONER'S IMMEDIATE RELEASE

A. Release Is the Customary Habeas Remedy

The Supreme Court has made clear that "habeas is at its core a remedy for unlawful executive detention" and that "[t]he typical remedy [for such detention] is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). The Court has likewise confirmed that "[h]abeas has traditionally been a means to secure release from unlawful detention." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020). Release—not a bond hearing—is the quintessential habeas remedy.

B. A Bond Hearing Is Inadequate Because the Government Has Demonstrated a Pattern of Noncompliance

Across the country, when federal district courts have ordered bond hearings, the Government has responded with obstruction, defiance, and sham proceedings. In *Souza Vieira v. De Anda-Ybarra*, No. 3:25-cv-00432 (W.D. Tex. Oct. 23, 2025), the court ordered a bond hearing. At the hearing, the Immigration Judge stated that "he had reviewed this Court's decision, but he believed that this Court could not determine that the Immigration Judge had jurisdiction over Petitioner's bond, and that he remained bound by the Board of Immigration Appeals." The IJ denied bond on jurisdictional grounds—directly defying the federal court's order. The Government ultimately had to release the petitioner, but only after unnecessary delay.

In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal.), the court certified a class and ordered bond hearings, yet "certain immigration courts in its jurisdiction had disregarded court-ordered class-wide habeas relief directing bond hearings." *Caballero Gutierrez v. Garcia*, No. 1:25-cv-01145 (D.N.M. Feb. 5, 2026). This Court should not order a remedy that the Government's own administrative apparatus has shown it will undermine. Immediate release is the only remedy that ensures compliance.

C. Courts Across the Country Have Ordered Immediate Release in Materially Identical Cases

Just yesterday, Judge Hodge of this Court ordered immediate release in *Baskaev v. Jamison*, No. 26-cv-1053 (E.D. Pa. Feb. 23, 2026), granting the habeas petition, ordering release by 5:00 p.m. on February 24, 2026, enjoining re-detention, and requiring a bond hearing before any re-detention. Judge Hodge has consistently ordered immediate release in these cases. *See also Cristancho Nava v. Jamison*, No. 2:26-cv-00151 (E.D. Pa. Jan. 16, 2026) (Hodge, J.) (ordering

immediate release); *Kumar v. Jameson*, No. 2:26-cv-00470 (E.D. Pa. Jan. 29, 2026) (Hodge, J.) (same).

The District of Minnesota has held expressly that "[t]he proper remedy for this kind of violation is release from custody, not a bond hearing." *Lopez Lopez v. Lyons*, No. 0:26-cv-00707 (D. Minn. Feb. 1, 2026). *See also Farah v. Bondi*, No. 0:26-cv-01319 (D. Minn. Feb. 14, 2026) (ordering release within 48 hours and enjoining re-detention); *Choca Yepez v. Lyons*, No. 0:26-cv-00660 (D. Minn. Jan. 31, 2026) ("immediate release is the appropriate remedy"); *Urquilla-Ramos v. Trump*, No. 2:26-cv-00066 (S.D.W. Va. Feb. 19, 2026) (ordering petitioner "released immediately from civil immigration custody"); *Martinez Gamez v. Easterwood*, No. 4:26-cv-03009 (D. Neb. Feb. 4, 2026) ("Respondents shall release Petitioner immediately").

II. PETITIONER'S DETENTION IS NOT AUTHORIZED BY § 1225(b)(1)

A. Parole Fundamentally Altered Petitioner's Detention Status

Respondent argues that because Petitioner was initially processed for expedited removal, he must remain subject to mandatory detention under § 1225(b)(1) indefinitely—even though he received a positive credible fear finding, was placed into full removal proceedings under § 1229a, was paroled under § 1182(d)(5), and lived in the community for over four years. This Court rejected this exact argument in *Vazquez-Diaz v. Rose*, No. 26-cv-342 (E.D. Pa. Feb. 10, 2026) (Gallagher, J.), finding that a grant of parole under § 1182(d)(5) forecloses mandatory detention under § 1225(b).

Five additional judges on this Court agree. *See Talabadze v. Rose*, No. 26-cv-360 (E.D. Pa. Jan. 30, 2026) (Perez, J.); *Seminario-Marcos v. Jamison*, No. 26-cv-421 (E.D. Pa. Feb. 6, 2026) (Kearney, J.); *Vargas-Quajada v. Jamison*, No. 26-cv-914 (E.D. Pa. Feb. 17, 2026) (McHugh, J.); *Nawab Ali v. Jamison*, No. 26-cv-729 (E.D. Pa. Feb. 19, 2026) (Quinones-Alejandro, J.); *Zavala*

Ulloa v. Jamison, No. 26-cv-823 (E.D. Pa. Feb. 20, 2026) (Marston, J.). The consensus in this District is uniform.

B. The "Return to Custody" Language Does Not Mandate Return to § 1225(b)(1)

Respondent places great weight on § 1182(d)(5)(A), which provides that upon parole termination, "the alien shall forthwith return or be returned to the custody from which he was paroled." But this language does not specify which detention provision governs upon return. It says nothing about mandatory detention under § 1225(b)(1). It merely states the individual is returned to custody—and the question of which statutory authority governs that custody must be determined by the individual's current procedural posture.

Petitioner is in full removal proceedings under § 1229a. He is not at the border. He is not in expedited removal. He has been living in the interior of the United States for over four years. The detention authority that governs individuals in this posture is § 1226(a). As the Southern District of West Virginia held in *Urquilla-Ramos*, "noncitizens already present in the United States are governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and requires individualized custody determinations." This holding reflects the near-universal consensus of federal district courts. In *Demirel v. FDC Philadelphia*, No. 2:25-cv-05488 (E.D. Pa. Nov. 18, 2025), Judge Diamond catalogued 288 decisions—282 (98%) rejected the Government's position.

C. The Government's Own I-213 Contradicts Its § 1225(b)(1) Theory

The Government claims Petitioner is detained under § 1225(b)(1) as an applicant for admission. But the Government's own February 13, 2026 I-213 (Exhibit 2) charges Petitioner under "8 USC 1251—DEPORTATION ONLY." Section 1251 (now codified at 8 U.S.C. § 1227) is the deportation statute—it governs individuals who are present in the United States. The

Government cannot simultaneously charge Petitioner as *deportable* under § 1227 and claim he is an *arriving alien* subject to § 1225(b)(1). The Government's own charging document confirms that Petitioner's detention is governed by § 1226(a).

D. The Entry Fiction Does Not Save the Government's Position

Respondent invokes *Thuraissigiam*, 591 U.S. at 139, for the proposition that parolees are "treated as if stopped at the border." But *Thuraissigiam* addressed an individual apprehended at the physical border within hours of crossing, not an individual who has lived in the United States for over four years. As the Supreme Court distinguished in *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), § 1225(b) governs individuals at the border, while § 1226(a) governs those "already in the country pending the outcome of removal proceedings." Petitioner is indisputably the latter.

In *Urquilla-Ramos*, the court recognized that noncitizens who have developed substantial connections with the United States possess constitutional protections, including Fourth and Fifth Amendment rights. The entry fiction cannot eliminate all constitutional protections for a person who has lived and established community ties in this country for four and a half years.

E. Matter of M-S- and Matter of Q. Li Are Not Binding

Respondent cites *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). After *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overruled *Chevron* deference, neither Attorney General nor BIA interpretations are entitled to deference from Article III courts. Notably, *Q. Li* itself acknowledged that "for years Immigration Judges have conducted [§ 1226(a)] bond hearings for aliens who entered the United States without inspection." 29 I&N Dec. at 71. The Government's own 1997 interim rule implementing IIRIRA expressly stated that noncitizens present without admission or parole would be "eligible for bond and bond redetermination" under § 1226(a). 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

F. Respondent Relies on Only Two Decisions—Both from the District of New Jersey

The only courts to accept the Government's theory are *Woodley v. Rokosky*, No. 26-cv-00150 (D.N.J. Feb. 2, 2026), and *Faqirzada v. Rokosky*, No. 25-cv-16639 (D.N.J. Jan. 8, 2026). These two decisions stand against the uniform consensus of six judges on this Court and 280+ district courts nationally.

III. EVEN IF § 1225(b)(1) APPLIED, DETENTION VIOLATES DUE PROCESS

Even assuming *arguendo* that § 1225(b)(1) mandates Petitioner's detention, prolonged mandatory detention without any individualized hearing violates the Fifth Amendment under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

First, the private interest at stake is the highest: physical liberty. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). *See also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (freedom from detention is "the most elemental of liberty interests"). In *Urquilla-Ramos*, the court confirmed that "prolonged detention without an individualized bond determination violates due process under the balancing framework articulated in *Mathews v. Eldridge*."

Second, the risk of erroneous deprivation is acute. Without any hearing, there is no mechanism to assess whether Petitioner poses a flight risk or danger. He is detained based solely on an immigration classification, not on any individualized assessment.

Third, the Government's interest is minimal. A bond hearing is a routine administrative proceeding. The modest burden of holding a hearing is vastly outweighed by Petitioner's interest

in freedom. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (prolonged mandatory detention requires due process safeguards).

Respondent's citation to *Demore v. Kim*, 538 U.S. 510 (2003), is unavailing. *Demore* addressed mandatory detention under § 1226(c) for criminal aliens facing brief, definite detention periods—an average of 47 days—and did not hold that indefinite detention without any hearing satisfies due process.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court enter an order consistent with *Baskaev v. Jamison*, No. 26-cv-1053 (E.D. Pa. Feb. 23, 2026) (Hodge, J.):

1. Granting the Petition for Writ of Habeas Corpus;

2. Ordering the Government to release Petitioner from custody immediately;

3. Declaring that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(1) or § 1225(b)(2), and that his detention, if any, is governed by § 1226(a);

4. Temporarily enjoining the Government from re-detaining Petitioner;

5. Ordering that if the Government decides to pursue re-detention, it must first provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a), at which the Government bears the burden of justifying continued detention by clear and convincing evidence;

6. Enjoining the Government from removing, transferring, or facilitating the removal of Petitioner from the Commonwealth of Pennsylvania before the ordered bond hearing; and

7. Granting such other relief as this Court deems just and proper.

Dated: February 24, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2026, a true and correct copy of the foregoing Petitioner's Reply to Respondent's Response in Opposition to Petition for Writ of Habeas Corpus was served upon all counsel of record via the Court's CM/ECF electronic filing system, including:

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