2023 however Petitioner was released from detention in California

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DUSTMUROD RAKHIMOV, Petitioner, v. KEVIN RAYCRAFT, Acting Field Director, United States Immigration and Customs Enforcement, *et al.*, Respondents.	Case No. 1:26-cv-00444 District Judge Jeffery P. Hopkins Magistrate Judge Kimberly A. Jolson

RETURN OF WRIT

Respondents, Kevin Raycraft, Acting Field Director, the United States Immigration and Customs Enforcement ("ICE"), Markwayne Mullin, Secretary, the United States Department of Homeland Security ("DHS"), and Todd Blanche, the Acting Attorney General of the United States respectfully file this Return of Writ.

I. INTRODUCTION

Petitioner Dustmurod Rakhimov arrived in the United States at a designated port of entry, applied for admission to the United States, and was properly detained pursuant to 8 U.S.C § 1225 as an arriving alien. Petitioner's subsequent parole did not alter Petitioner's status as an arriving alien and, thus, he remained subject to mandatory detention when he was re-detained following his arrest in 2025 for domestic violence and strangulation. Moreover, because Petitioner is an arriving alien, his Petition is not controlled by the Sixth Circuit's recent decision in *Lopez-*

After striking the victim in the face, Petitioner then choked the victim for 3-5 seconds. (*Id.*) The victim was transported by EMS to Bethesda North Hospital for treatment. (*Id.*)

Following his re-detention by Respondents, Petitioner requested bond redetermination hearings on two occasions, once prior to the Sixth Circuit's decision in *Lopez-Campos* and once following the Sixth Circuit's decision. (Petition, ECF No. 7, at PageID 31.) Both requests were denied for lack of jurisdiction. (*Id.*) During the second hearing, the immigration court clarified that it lacked jurisdiction because Petitioner is an arriving alien subject to mandatory detention and, therefore, not entitled to a bond hearing under the Sixth Circuit's decision in *Lopez-Campos*. (*Id.*)

III. ARGUMENT

A. Petitioner is an Arriving Alien and Subject to Mandatory Detention.

Section 1225(b)(1) provides for expedited removal proceedings for arriving aliens. "An arriving alien means an applicant for admission coming or attempting to come into the United States at a port-of-entry." *Walang v. Acting Field Office Director*, No. 1:26-cv-151, ECF No. 8, at PageID 173 (S.D. Ohio Mar. 5, 2026) citing 8 C.F.R. § 1.2; *see also* 8 C.F.R. § 1001.1(q) ("The term arriving alien means an applicant for admission coming or attempting to come into the United States at a port-of-entry . . . .") If the arriving alien is inadmissible, then the officer "shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of

persecution." 8 U.S.C. § 1225(b)(1)(A)(i). When an arriving alien indicates either an intention to apply for asylum or fear of persecution, the inspecting officer "shall refer the alien for an interview by an asylum officer under [8 U.S.C. § 1225(a)(1)(B)]." 8 U.S.C. § 1225(a)(1)(A)(ii); *see also* 8 C.F.R. § 235.3(b)(4) ("If an alien subject to the expedited removal provisions indicates an intention to apply for asylum, or expresses a fear of persecution or torture, or a fear of return to his or her country, the inspecting officer shall not proceed further with removal of the alien until the alien has been referred for an interview by an asylum officer[.]". But, following a credible fear interview, "if the asylum officer determines that the alien has a credible fear of persecution, then the alien shall be detained for further consideration of the application for asylum." *Walang,* ECF No. 8, at PageID 173 citing 8 U.S.C. § 1225(b)(1)(B)(ii). In such circumstances, the individual remains an arriving alien subject to mandatory detention. *Id.*

Here, Petitioner concedes that he is an arriving alien and was, as a result, properly subject to mandatory detention. (Petition, ECF No. 7, at PageID 29.) Petitioner, however, asserts that his release from detention pending the culmination of his immigration proceedings vested him with some more favorable status when he was later re-detained after his arrest for domestic violence and strangulation. Petitioner is mistaken.

Release from detention does not alter an alien's status as an arriving alien. As noted by the Court in *Walang,* "[t]his question is easily settled under the relevant regulations. An arriving alien remains an arriving alien even if paroled . .

. and even after any such parole is terminated or revoked." *Id.* citing 8 C.F.R. § 1.2; *see also* 8 C.F.R. § 1001.1(q) ("An arriving alien remains an arriving alien even if paroled . . . and even after such parole is terminated or revoked."). Other federal courts have agreed. *See, e.g., Conzalez Crispin v. Olsen,* 2026 WL 1430506 (W.D. Ky. May 21, 2026) (recognizing that, upon the termination and expiration of parole, an alien is returned to the immigration status they maintained at the time of parole); *Jean v. Bullock,* 2026 WL 1531056, *3 (W.D. Ky. May 30, 2026) ("Nor does it matter that Petitioner was paroled into the United States: Petitioner acknowledges that parole is not admission and it therefore does not turn an applicant for admission who is seeking admission into something else.").

Petitioner was an arriving alien and subject to mandatory detention when he arrived in the United States in August 2023. Petitioner's release on temporary parole subject to ATD conditions did not alter that status, and when was re-detained in December 2025, he remained an arriving alien, subject to detention without eligibility for a bond hearing. The Petition should be denied.[3]

B. Petitioner's Detention Does Not Violate Due Process.

The Supreme Court has held that detention during removal proceedings,

[3] This Court also lacks jurisdiction to consider any challenge by Petitioner to Respondents' discretionary decision to revoke his parole. Section 1252(a)(2) of Title 8 of the United States Code, entitled "Matters Not Subject to Judicial Review" states that "[n]otwithstanding any other provision of law . . . no court shall have jurisdiction to review" any decision or action of the Attorney General or Secretary of Homeland Security "the authority for which is specified under this subchapter to be in [their] discretion . . . ." 8 U.S.C. § 1252(a)(2)(B)(ii). Congress has placed the authority to terminate parole in the Secretary's discretion. The parole statute explicitly provides that the Secretary may terminate parole when he determines, in his "opinion," that the "purposes" of parole "have been served." 8 U.S.C. § 1182(d)(5)(A). Accordingly, because parole termination is a discretionary decision by the Secretary, Section 1252(a)(2)(B)(ii)'s judicial-review bar applies to any argument by Petitioner that Respondents improperly revoked his parole. *See* 8 U.S.C. § 1252(a)(2)(B)(ii).

even without access to a bond hearing, is constitutional. In *Demore v. Kim*, 538 U.S. 510, 522 (2003), the Supreme Court upheld the constitutionality of § 1226(c), which mandates the detention of certain aliens during removal proceedings without access to bond hearings. The Supreme Court "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," and reaffirmed its "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 523, 526. The Court further explained that "when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal." *Id.* at 528. With respect to due process concerns, the Court recognized that it "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Id.* at 522. And indeed, one federal court weighing the detention of an arriving alien after *Lopez-Campos* noted that the Sixth Circuit, citing *Demore*, "explicitly held that the calculus is different where—as here—Congress specifically called for mandatory detention." *Jean*, 2026 WL 1531056, at *3 *citing Lopez-Campos*, 175 F.4th at 734.

Here, Petitioner is an arriving alien subject to mandatory detention. Congress has determined that, in such circumstances, no bond hearing is available. And, as in *Demore* (although under a separate provision), Congress's decision to do so does not violate Petitioner's due process rights.

Nor has Petitioner's detention become unconstitutionally prolonged.

Petitioner cites to no case in which an individual detained for a similar period was found to have been detained for an unconstitutionally long period. Indeed, the sole case cited by Petitioner involved detention for 10 months, approximately *twice* as long as Petitioner. (Petition, ECF No. 7, at PageID 35 *citing Gao v. Larose*, 805 F.Supp.3d 1106 (S.D. Cal. 2005)). In other contexts, of course, the Supreme Court has held that immigration detention of less than six months is presumptively reasonable and constitutionally permissible. *See Zadvydas v. Davis*, 533 U.S. 690 (2001). Petitioner's detention thus does not violate his due process rights.

C. If the Court Grants the Petition, It Should Order a Bond Hearing.

This Court should reject Petitioner's arguments that his parole altered his status as an arriving alien and that his detention violates his right to due process. Nonetheless, if this Court disagrees and grants the Petition, the proper remedy is to order that Petitioner receive a bond hearing within a reasonable time. Petitioner twice requested bond hearings, and both requests were rejected by the immigration court. Those decisions, however, were premised on the immigration court's determination that Petitioner is an arriving alien subject to mandatory detention. To the extent this Court holds otherwise, Respondents are confident that the immigration court will faithfully apply this Court's decision and will hold a bond hearing to determine whether Petitioner is a flight risk or danger to the community.

IV. CONCLUSION

Respondents respectfully request that the Court deny and dismiss the

Petition.

Respectfully submitted,

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