UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

DUSTMUROD RAKHIMOV, Petitioner, v. KEVIN RAYCRAFT, Acting Field Director, United States Immigration and Customs Enforcement, in his official capacity; United States Secretary of Homeland Security, in his official capacity; and United States Attorney General, in his official capacity; Respondents.	Case No. 1:26-cv-00444 District Judge Jeffery P. Hopkins Magistrate Judge Kimberly A. Jolson **REPLY TO RETURN OF WRIT**

Petitioner, Dustmurod Rakhimov, submits the following in reply to the Return of Writ, filed by the Respondents on June 15, 2026. The Respondents contend that the Petitioner remains subject to mandatory detention as an arriving alien under 8 U.S.C. § 1225 because he was initially detained under that section in 2023, prior to passing a credible fear interview. He has now been re-detained; therefore, according to the Respondent, he remains an "arriving alien" under the definition of that phrase set forth 8 C.F.R. § 1.2. Respondents also cite to this court's decision in *Walang v. Acting Field Office Director,* No. 1:26-cv-151 (S.D. Ohio March 5, 2026). Notably, the Respondents do not analyze or make any attempt to distinguish this court's decision in *Bajwa v. Raycraft,* 1:26-cv-242, 2026 WL 1029670 (S.D. Ohio 04/15/2026), which formed the central pillar of the legal argument in the amended petition, and which flatly contradicts the government's position. If this court follows *Bajwa,* it must reject the government's argument.

The mere citation to 8 C.F.R. § 1.2 is unavailing in the face of *Bajwa*. Even though the Department of Homeland Security interprets the Immigration and Nationality Act to mandate detention of all aliens re-detained after their initial parole into the United States, regardless of how long they have been present in the United States, such an interpretation need not be deferred to in the wake of *Loper Bright Enterprises v. Raimundo,* 603 U.S. 369 (2024) (holding that the federal courts are not obliged to defer to an administrative agency's interpretation of statutory texts).

To the extent that *Walang* is inconsistent with *Bajwa,* the *Bajwa* decision is better reasoned, and *Walang* should be disregarded; however, the decision in *Walang* is in fact distinguishable from the present case. In *Walang* the alien petitioner, a native of Cameroon, had been found ineligible for asylum by the Department of Homeland Security; i.e., he had failed his credible fear interview, which directly triggered the revocation of his parole. *See Walang* at 2-3. By contrast, in the case at bar, the Petitioner passed his credible fear interview and was pursuing his asylum case in removal proceedings at the time of his re-detention.

The Respondent's contentions with regard to the Petitioner's due process claim likewise fail to address *Bajwa,* which held that re-detention of a paroled arriving alien without a bond hearing two years after his entry does indeed violate due process.

For all these reasons, the court should reject the Respondent's arguments and order the immigration court to provide a fair bond hearing to the Petitioner. The Petitioner has never denied that he was charged with a serious crime in state court, prior to his detention by the Respondent. While he appreciates opposing counsel's efforts to present

a more rounded picture of the underlying facts to this court, it remains the province of the immigration court to make a factual determination regarding the Petitioner's dangerousness to the community or lack thereof. *See* 8 C.F.R. § 1003.19(h)(3). Through his prayer for habeas relief, Petitioner merely seeks to enforce his legal right to a bond hearing, a right the immigration judge has denied him twice on faulty jurisdictional grounds

/s/ Paul W. Shonk
Paul W. Shonk
Counsel for Petitioner

CERTIFICATE OF SERVICE

I submitted the foregoing Reply to the Return of Writ to the Court's ECF system on June 22, 2026. I certify that all parties are participants in ECF; therefore, no separate service was completed.

/s/ Paul W. Shonk
Paul W. Shonk
Counsel for Petitioner