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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
9 FRESNO DIVISION

10 **AIUB MULIUKOV,**

11 Petitioner,

12 v.

13 JEFFREY LYNCH, Warden, Golden State
14 Annex;

15 SERGIO ALBARRAN, Field Office
16 Director of San Francisco Office of
Detention and Removal, U.S. Immigrations
and Customs Enforcement, U.S.
Department of Homeland Security;

17 TODD M. LYONS, Acting Director,
18 Immigration and Customs Enforcement,
U.S. Department of Homeland Security;

19 MARKWAYNE MULLIN, in his Official
20 Capacity, Secretary, U.S. Department of
Homeland Security; and

21 Todd BLANCHE, in his Official Capacity,
22 Attorney General of the United States,

23 Respondents-

24 Defendants.
25
26

DETAINED

Case No. 1:26-cv-05104-DJC-JDP

Immigration alien number: 

**PETITIONER'S TRAVERSE AND
REPLY IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS AND
EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER; RESPONSE TO
RESPONDENTS' ANSWER (ECF 6)**

27 **INTRODUCTION**

28 Respondents' Answer (ECF 6) concedes the facts that decide this case and rests

1 on a single distinction that its own evidence defeats. Respondents admit that
2 Petitioner was paroled into the United States at a port of entry, enrolled in
3 Alternatives to Detention (“ATD”), and left at liberty in the community for
4 roughly two and a half years; that he has no criminal history; and that, as of his
5 arrest on June 27, 2026, the Department had served no notice revoking his
6 parole and no hearing existed on any detained docket. (See ECF 6, Ex. 1
7 [“MULIUKOV will be served a revocation notice of his parole and a motion
8 will be filed with EOIR for a new hearing date on the detained docket.”].)
9 That concession is dispositive. The Department detained Petitioner first and
10 planned process later. Under the decisions of this District, the Government’s
11 decision not to detain a paroled noncitizen, followed by years of compliant
12 liberty, creates a constitutionally protected liberty interest that the Government
13 may not extinguish by summary seizure without pre-deprivation notice and a
14 hearing before a neutral decisionmaker.
15 Respondents’ sole attempt to distinguish the controlling cases is their assertion
16 that Petitioner was re-detained “due to ATD violations.” That assertion fails
17 twice over: the alleged violations are unreliable and were never treated as
18 violations when they supposedly occurred, and in any event a completed, minor,
19 technical infraction does not authorize detention without the process the
20 Constitution requires.

21 **THE ANSWER’S FACTUAL PREDICATE IS UNRELIABLE AND**
22 **IS CONTRADICTED BY RESPONDENTS’ OWN EXHIBIT**

23 Respondents assert that Petitioner “entered without inspection” and “entered the
24 United States illegally.” (ECF 6 at 1–2.) Their own Exhibit 1 says the opposite:
25 Petitioner was inspected and “paroled into the U.S. after arriving at the Port of
26 Entry” at Progreso, Texas, on January 13, 2024, under 8 U.S.C. § 1182(d)(5). A
27 filing that misstates the manner of a petitioner’s entry — in direct conflict with
28

1 the evidence it submits — is entitled to little weight on the facts that matter, and
2 it confirms the very parole and release that give rise to Petitioner’s liberty
3 interest.

4 The claimed basis for detention — five “missed biometric check-ins” — is
5 unreliable on the face of Respondents’ exhibit. The dates listed are April 1,
6 2024; May 27, 2024; an impossible date that the exhibit records as
7 “92/09/2026”; February 16, 2026; and May 4, 2026..

8 Two of the alleged infractions supposedly occurred in April and May 2024 —
9 yet the Department issued no violation, no warning, and no sanction, and left
10 Petitioner on supervised release for more than two additional years. By
11 Respondents’ own document, “[v]iolations are issued once staff is confident that
12 the participant was at fault.” The absence of any contemporaneous violation
13 shows that these check-ins were not treated as violations when they occurred
14 and were assembled after the fact to justify a detention decision the Department
15 had already made.

16 Petitioner’s evidence refutes the check-in claim directly. He retained screenshots
17 confirming his timely check-ins, and his ISAP officer told him that the single
18 flagged photograph was a technical malfunction of the application and that there
19 was “no problem.” (See Decl. ISO Pet. & Appl.)

20 Exhibit 1 confirms that the arrest was a pre-planned, targeted apprehension:
21 ERO officers “were tasked to locate and apprehend” Petitioner at the ISAP
22 office and did so — not a response to any violation detected at a check-in.

23 **II. EVEN IF THE ALLEGED VIOLATIONS OCCURRED, THEY DO**
24 **NOT AUTHORIZE SUMMARY DETENTION WITHOUT PRE-**
25 **DEPRIVATION PROCESS**

26 The liberty interest here arises from the Department’s decision not to detain
27 Petitioner and from his years of compliant release. See *Dzhatdov v. Warden,*
28 *GSA; Garro Pinchi v. Noem; Morrissey v. Brewer.* A minor, completed,

1 technical infraction — a biometric check-in submitted more than sixty minutes
2 after a notification — does not extinguish that interest or excuse the total
3 absence of notice and a hearing.

4 This District has squarely held that a completed violation, followed by a later
5 hearing, does not cure the constitutional defect; the process must precede the
6 deprivation of liberty. See *Zhunio Malla v. Warden, GSA*. Respondents concede
7 that no revocation notice had issued and no hearing existed when they seized
8 Petitioner. The deprivation therefore preceded any process — the precise
9 violation the Due Process Clause forbids.

10 The remedy is release restoring the status quo ante, with re-detention permitted
11 only upon advance written notice and a pre-deprivation hearing at which the
12 Government bears the burden of justifying custody.

13 **III. THE SECTION 1225(b)(2)(A) “MANDATORY DETENTION”**
14 **THEORY FAILS UNDER CONTROLLING AUTHORITY IN THIS**
15 **DISTRICT**

16 Respondents contend Petitioner is subject to mandatory detention as an
17 “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A), relying on *Avila v.*
18 *Bondi* (8th Cir.), *Buenrostro-Mendez v. Bondi* (5th Cir.), and *Cortes Alonzo v.*
19 *Noem*. This District has considered and rejected that approach. In *Wasef v.*
20 *Chestnut*, the court declined to follow the *Buenrostro-Mendez* majority and
21 adopted instead the reasoning of *Castañon-Nava* (7th Cir.) and the *Buenrostro-*
22 *Mendez* dissent.

23 Consistent with *Wasef*, courts in this District have repeatedly ordered the release
24 of paroled § 212(d)(5) arriving aliens re-detained at ISAP check-ins, holding
25 that such a person is entitled to a custody determination and may not be
26 summarily detained. See *Dzhatdov*; *Qambari v. Albarran*; *Rafael R.M. v.*
27 *Warden, GSA*; *Vilela v. Robbins*; *Velasquez-Quevedo v. Warden, GSA*. As
28 *Rafael R.M.* explains, “arriving” describes a process of entry, not a permanent

1 status that strips a long-released parolee of due process.

2 Jennings v. Rodriguez, Shaughnessy v. Mezei, and DHS v. Thuraissigiam do not
3 compel a different result. Jennings addressed whether the detention statutes
4 themselves require periodic bond hearings — not whether the Due Process
5 Clause permits the summary re-detention of a noncitizen released into the
6 community for years. And Thuraissigiam is inapposite: the noncitizen there was
7 apprehended shortly after an unlawful crossing, was never paroled, and was
8 never released; Petitioner, by contrast, was inspected and paroled at a port of
9 entry and lived in the community for two and a half years with a five-year
10 employment authorization document, a United States-citizen child, and a
11 California driver's license — the established connections that carry the full
12 protection of the Due Process Clause.

13 **IV. RESPONDENTS' OWN EVIDENCE ESTABLISHES THE**
14 **EQUITIES AND REQUIRES RELEASE**

15 Respondents' exhibit confirms the equities. The I-213 states that Petitioner has
16 no criminal history ("CRIMINAL HISTORY: None"), is married, and has a
17 United States-citizen minor child ("Number and Nationality of Minor Children:
18 1-United States, 1-Russia"). He is the sole financial provider for his family.
19 Petitioner is not a flight risk. ICE directed him to appear at a specific place and
20 time, and he appeared exactly as instructed. His asylum application remains
21 pending in his ongoing removal proceedings; his defensive Form I-589 is filed
22 with the immigration court (EOIR), not with USCIS, and his category (c)(8)
23 employment authorization confirms a pending asylum application. Respondents'
24 own exhibit states that his last immigration hearing was August 5, 2024 and that
25 the Department will seek a new EOIR hearing date — confirming that his
26 removal proceedings are ongoing and that his custody is not governed by 8
27 U.S.C. § 1231. Proof of filed defensive I-589 was attached to the habeas petition
28

1 as Exhibit B.

2 **CONCLUSION**

3 Respondents do not request a hearing and do not oppose a ruling on the petition
4 without further briefing. (ECF 6.) For the foregoing reasons, and those set forth
5 in the Petition and the Application, Petitioner respectfully requests that the Court
6 grant the writ, order his immediate release on the conditions of supervision in
7 effect before June 27, 2026, grant the temporary restraining order, and deny
8 Respondents' Answer and all requested relief.

9 Dated: July 8, 2026

10 Respectfully submitted,

11 /s/ Regina Jacobson

12 Regina Jacobson
13 (SBN 233127)
14 Attorney for Petitioner