

**United States District Court
Western District of Texas
San Antonio Division**

Amin Rabi Havi
Petitioner,

v.

Kristi Noem, in her official capacity as
Secretary, U.S. Department of Homeland
Security *et al*,
Respondents.

No. 5:25-CV-00896-FB

**Federal¹ Respondents' Response to
Petitioner's Writ of Habeas Corpus**

Federal Respondents timely submit this response per this Court's Order dated September 2, 2025, ordering a response within 30 days of the date of service on September 17, 2025. *See* ECF Nos. 8; 11 (confirming CMRRR delivery). Petitioner is an applicant for admission with a final order of expedited removal dated October 31, 2024, which mandates his detention. *See* ECF No. 1 ¶ 6; Ex. A (ICE Declaration) ¶¶ 4, 8; 8 U.S.C. §§ 1225(b); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 111 (2020). Petitioner argues his continued detention is baseless and violates his substantive and procedural rights under the Constitution's Fifth and Fourteenth Amendments. ECF No. 1 at 6–7; 10–11. He further claims he cannot be returned to Iran, as Iran has declined to issue a travel document to him. *Id.* at ¶ 13. For these reasons, the Court should deny this habeas petition.

I. Facts and Procedural History

Petitioner is a native of and citizen of Iran. Exh. A (ICE Declaration) ¶ 4. On September

¹ The named warden in this action is not a federal employee. The Department of Justice does not represent him in this action.

23, 2024, Petitioner entered the United States, without inspection, near Eagle Pass, Texas. *Id.* at ¶ 4. On October 8, 2024, an asylum officer with United States Citizen and Immigration Services (“USCIS”) conducted a credible fear interview with Petitioner. *Id.* On October 15, 2024, Petitioner received a negative credible fear determination and requested review by an immigration judge. *Id.* On October 31, 2024, the immigration judge conducted a review of USCIS’s determination and affirmed the asylum officer’s decision. *Id.* The immigration judge returned the case to ICE to execute the removal order. *Id.*

ICE began requesting Iranian travel documents on Petitioner’s behalf because Petitioner did not possess identification documents. *Id.* On February 26, 2025, ICE mailed a travel document request to diplomatic officials for the government of Iran. *Id.* On May 15, 2025, Iran denied the travel document request for failure to verify Petitioner’s identity. *Id.* On May 21, 2025, ICE submitted third country removal requests to Mexico, Guatemala, and Honduras to accept Petitioner. *Id.* On September 13, 2025, ICE discussed with Petitioner ICE’s efforts to remove him to a third country. *Id.* ¶ 4(m). Petitioner agreed to be removed to a third country. *Id.* On October 14, 2025, ICE sent a renewed request for a travel document to Iran. *Id.* ICE’s renewed travel request included a newly identified passport number for Petitioner. *Id.*

ICE is pending a response from Iran on the request for Petitioner’s travel document. *Id.* ICE is pending a response from Mexico, Guatemala, and Honduras whether they will accept Petitioner. *See* Exh. A at ¶ 4. On July 28, 2025, Petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241, arguing his detention is baseless under the Constitution’s Fifth and Fourteenth Amendment. ECF No. 1 at 6. He seeks release from ICE custody and argues he cannot be removed to Iran because ICE has been unsuccessful in obtaining a travel document. *Id.* at 6.

ICE’s FY2024 annual report documents 27 Iranian nationals were removed from the United

States, the highest number of removals in the past five years. *See* <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> (last accessed October 15, 2025). In FY2025, 11 Iranian nationals were removed. *See* [ICE Enforcement and Removal Operations Statistics | ICE](#) (filtered by nationality and last accessed Oct. 15, 2025). At the end of FY2025, ICE successfully removed a charter flight of Iranian nationals from the United States. *See, e.g.,* [Dozens of Iranians to be deported from US to Iran, Tehran says | CNN](#) (last accessed Oct. 15, 2025).

II. Petitioner Is Detained Pursuant to an Expedited Removal Order Until Removal on a Mandatory Basis Under 8 U.S.C. § 1225(b)(1).

This petition should be denied. Petitioner is lawfully detained until removal as an applicant for admission with a negative credible fear finding and a final order of expedited removal. 8 U.S.C. § 1225(b)(1)(B)(iii). “To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering.” *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Section 1225 governs inspection, the initial step in this process, *id.*, stating that all alien “applicants for admission . . . shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). The statute—in a provision entitled “ALIENS TREATED AS APPLICANTS FOR ADMISSION”—dictates who “shall be deemed for purposes of this chapter an applicant for admission,” defining that term to encompass *both* an alien “present in the United States who has not been admitted *or* [one] who arrives in the United States” *Id.* § 1225(a)(1) (emphasis added).

Paragraph (b) of § 1225 governs the inspection procedures applicable to all applicants for admission. They “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(1) applies to those “arriving in the United States” and “certain other” aliens “initially determined to be inadmissible due to fraud,

misrepresentation, or lack of valid documentation.” *Id.* § 1225(b)(1)(A)(i), (iii). Aliens, like Petitioner here, falling under this subsection are generally subject to expedited removal proceedings “without further hearing or review.” *See id.* § 1225(b)(1)(A)(i). But where the applicant “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer him for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii).

In the sole discretion of the Attorney General, these expedited procedures may be applied to applicants for admission who cannot show that they have been continuously physically present for the two-year period immediately prior to the date of determination of inadmissibility. *Id.* § 1225(b)(1)(A)(iii)(I)–(II). An applicant “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is “found not to have such a fear,” he is detained until removal from the United States. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV). *See also Thuraissigiam*, 591 U.S. at 111.

Because Petitioner falls squarely within the definition of individuals deemed to be “applicants for admission,” the specific detention authority under § 1225(b) governs until removal. Petitioner here was found to have no credible fear and is subject to a final order of expedited removal. Exh. A at 4. Petitioner was given fear review by USCIS and administrative review of USCIS’s decision by an immigration judge. Such process included notice and an opportunity to be heard. This process addresses constitutional concerns that were identified in *Zadvydas*, allowing the alien notice and opportunity to be heard regarding continued detention pending removal. *See, e.g.*, 8 C.F.R. § 241.13. As such, this process comports with Petitioner’s limited due process rights as an applicant for admission subject to a final order of expedited removal.

Moreover, Petitioner is not entitled to a bond hearing, and the Supreme Court has already upheld the constitutionality of this mandatory detention provision in both *Jennings* and *Thuraissigiam*. Those cases, rather than the *Zadvydas* decision, control the constitutional analysis here. *See Thuraissigiam*, 591 U.S. at 140. As the Supreme Court noted, aliens detained under § 1225(b) are afforded only the process that Congress provided them by statute. *Id.* Congress intended to mandate the detention of aliens like Petitioner until removal. To the extent Petitioner was owed any process during this time, he has already exhausted the administrative remedies available to him under the statute. His detention until removal comports with due process.

Petitioner's removal order has been final since October 31, 2024. Exh. A at ¶ 4. Specific to Petitioner, on October 14, 2025, ICE resubmitted a travel document request to the government of Iran, with Petitioner's newly identified passport number. *See* Exh. A at ¶ 4. Publicly available statistics show that 11 Iranian nationals were successfully removed in FY2025 (current as of October 2025). *See ICE Enforcement and Removal Operations Statistics | ICE supra*. Prior to FY2025, 27 Iranian nationals were successfully removed in FY2024, showing an overall increase in successful removals to Iran since FY 2021. *See <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> supra*.

In other words, ICE has reason to believe Iran may issue Petitioner a travel document because the second request contains Petitioner's passport information. Concurrently, ICE has sent request to third countries to accept Petitioner. Petitioner previously agreed to be removed to a third country. These requests are still pending. Once a travel document is issued, either to Iran or a third country, ICE does not foresee an impediment to executing this final order of expedited removal.

III. Conclusion

Petitioner's continued detention is mandatory under 8 U.S.C. § 1225(b)(1)(B)(iii) until his removal order is executed. Petitioner fails to show good reason to believe that there is no significant likelihood of removal to Iran in the reasonably foreseeable future. As such, the burden has not shifted to ICE to show the opposite. Even if the burden shifted, ICE could establish that removal is foreseeable. ICE has afforded Petitioner procedural due process through his mandatory detention. Accordingly, the Court should deny this petition.

Respectfully submitted,

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Certificate of Service

On October 15, 2025, I caused a copy of this filing to be served by mail on Petitioner, *pro se*, at the following address:

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