

1 TIMOTHY COURCHAINED
 2 United States Attorney
 District of Arizona
 3 LAURENCE G. TINSLEY, JR.
 4 Assistant U.S. Attorney
 Arizona State Bar No. 012581
 5 Two Renaissance Square
 6 40 North Central Avenue, Suite 1800
 Phoenix, AZ 85004-4449
 7 Telephone: (602) 514-7500
 8 Fax: (602) 514-7693
Laurence.tinsley@usdoj.gov
 9 *Attorneys for Respondents*

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE DISTRICT OF ARIZONA**

13 Junior Gomez,
 14
 15 Petitioner,
 16 v.
 17 John E. Cantu, et al.,
 18 Respondents.

No. CV-25-03255-PHX

**ANSWER TO AMENDED PETITION
 FOR WRIT OF HABEAS CORPUS**



19 **I. Introduction.**

20 Respondents respond to the Petition for Writ of Habeas Corpus (Doc. 1). Petitioner is
 21 currently in removal proceedings under Immigration and Nationality Act (“INA”) § 240, 8
 22 U.S.C. § 1229a and is detained in Immigration and Customs Enforcement (“ICE”) custody
 23 under 8 U.S.C. § 1225(b)(2)(A). While Petitioner’s habeas petition seeks release and a pre-
 24 detention bond hearing, and asserts that his detention is unlawful, his habeas petition also
 25 attacks decisions that have not occurred yet, *viz.*, termination of his INA § 240, 8 U.S.C. §
 26 1229a proceedings and commencement of expedited removal proceedings under INA §
 27 235(b)(1), 8 U.S.C. § 1225(b)(1). *See* Amended Petition, Doc. 10, at ¶ 74. Petitioner
 28 challenges potential actions, his claims present no controversy and he lacks standing. Further,

1 his habeas petition should also be denied because multiple provisions of 8 U.S.C. § 1252
2 unambiguously strip federal courts of jurisdiction over challenges to the commencement of
3 removal proceedings, claims arising from removal proceedings, and the application of
4 expedited removal proceedings.

5 Finally, Petitioner is an “applicant for admission” as defined by the statute. 8 U.S.C. §
6 1225(b)(2)(A). Thus he is subject to mandatory detention without bond, which the Supreme
7 Court has held comports with due process. Further, his due process rights are limited to those
8 proscribed by Congress. For all these reasons, the habeas petition should be denied.

9 **II. Factual and procedural background.**

10 Petitioner Junior Gomez is a native and citizen of Honduras, born on 
11  Exhibit A, Declaration of ICE Officer Nellie Martinez, ¶ 4. Petitioner entered the
12 United States on January 3, 2024 and presented himself to immigration authorities with the
13 intention of seeking asylum. Ex. A, at ¶ 5; Amended Petition, Doc. 10, ¶ 68.

14 After processing, Petitioner was found to be inadmissible pursuant to § 212(a)(6)(A)(i),
15 of the INA and placed into removal proceedings. Generally, arriving aliens found at or near
16 the border who have not been admitted or paroled are found to be inadmissible and processed
17 under expedited removal proceedings pursuant to INA § 235, 8 U.S.C. § 1225, and are subject
18 to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). However, Petitioner was
19 issued an order of release on recognizance on January 4, 2024, and a Notice to Appear in
20 general removal proceedings under INA § 240, 8 U.S.C. § 1229a. Ex. A, Dkt. 1-2; Ex. A,
21 Martinez Dec. at ¶¶ 6, 7.

22 On July 22, 2025, Petitioner appeared at his scheduled hearing in Dallas, Texas. The
23 Department of Homeland Security (DHS) moved to dismiss the case, and the immigration
24 court dismissed Petitioner’s proceedings. Doc. 10, ¶ 74; Ex A, Martinez Dec. at ¶ 8. Petitioner
25 alleges he was not informed that the dismissal was sought in order to place him into expedited
26 removal proceedings pursuant to INA § 235, 8 U.S.C. § 1225. Doc. 10, ¶ 74. After the
27 hearing, ICE agents arrested Petitioner and detained him. Doc. 10, ¶ 75; Ex. A, Martinez Dec.
28 at ¶ 9.

1 Petitioner appealed the dismissal of the removal proceedings by the immigration judge
2 (IJ) to the Board of Immigration Appeals (BIA) on July 24, 2025. Doc. 10, ¶ 76; Ex. A,
3 Martinez Dec. at ¶ 10. Petitioner was transferred to Florence Arizona.

4 His appeal remains pending. Doc. 10, ¶ 76; Ex. A, Martinez Dec. at ¶ 16.

5 **III. The habeas petition should be denied.**

6 *A. No case or controversy.*

7 No case or controversy exists to the extent Petitioner challenges DHS's dismissal of
8 his removal proceedings under INA § 240, 8 U.S.C. § 1229a, to pursue expedited removal
9 proceedings under INA § 235, 8 U.S.C. § 1225. See Amended Pet. ¶ 74. The Constitution
10 limits federal judicial power to designated "cases" and "controversies." U.S. Const., Art. III,
11 § 2; *SEC v. Medical Committee for Human Rights*, 404 U.S. 403, 407 (1972) (federal courts
12 may only entertain matters that present a "case" or "controversy" under Article III). "Absent
13 a real and immediate threat of future injury there can be no case or controversy, and thus no
14 Article III standing for a party seeking injunctive relief." *Wilson v. Brown*, 2015 WL
15 8515412, at *3 (S.D.Cal. Dec. 11, 2015), citing *Friends of the Earth, Inc. v. Laidlow Env't*
16 *Servs., Inc.*, 528 U.S. 167, 190 (2000)) At the "irreducible constitutional minimum," standing
17 requires that Plaintiff demonstrate: (1) an injury in fact, (2) that is fairly traceable to the
18 challenged action of the United States, and (3) likely to be redressed by a favorable decision.
19 *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

20 The Court should deny the habeas petition since Petitioner is challenging actions that
21 have not yet occurred. Petitioner is currently in INA § 240, 8 U.S.C. § 1229a proceedings.
22 He has an appeal pending with the BIA. Doc. 10, ¶ 76. He is *not* in expedited removal
23 proceedings pursuant to INA § 235, 8 U.S.C. § 1225. Thus there is currently no controversy
24 concerning his INA § 240 proceedings or any placement in expedited removal proceedings to
25 resolve, whether he challenges any decision in this case or at large. Federal courts simply do
26 not have jurisdiction "to give opinion upon moot questions or abstract propositions, or to
27 declare principles or rules of law which cannot affect the matter in issue in the case before it."
28 *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). The Court thus lacks

1 jurisdiction as to any challenge to DHS's motion to dismiss the INA § 240, 8 U.S.C. § 1229(a)
2 proceedings to pursue INA § 235, 8 U.S.C. § 1225 proceedings because it is premature and
3 no live case or controversy exists. *Powell v. McCormack*, 395 U.S. 486, 496 (1969); *Murphy*
4 *v. Hunt*, 455 U.S. 478, 481 (1982).

5 **IV. This Court lacks subject matter jurisdiction under 8 U.S.C. § 1252.**

6 The habeas petition should also be denied because the Court lacks jurisdiction over
7 Petitioner's claims. See *Ass'n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778-79 (9th
8 Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). Petitioner brings his habeas
9 action under 28 U.S.C. § 2241, but jurisdiction over his claims is barred under 8 U.S.C. §
10 1252(a)(2)(A), § 1252(e), § 1252(g), and § 1252(b)(9).

11 In general, courts lack jurisdiction to review a decision to commence or adjudicate
12 removal proceedings or execute removal orders. See 8 U.S.C. § 1252(g) (“[N]o court shall
13 have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
14 decision or action by the Attorney General to commence proceedings, adjudicate cases, or
15 execute removal orders.”); *Reno v. Am. Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483
16 (1999) (“There was good reason for Congress to focus special attention upon, and make
17 special provision for, judicial review of the Attorney General’s discrete acts of
18 “commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders” – which
19 represent the initiation or prosecution of various stages in the deportation process.”); *Limpin*
20 *v. United States*, 828 Fed. App’x 429 (9th Cir. 2020) (district court properly dismissed under
21 8 U.S.C. § 1252(g) “because claims stemming from the decision to arrest and detain an alien
22 at the commencement of removal proceedings are not within any court’s jurisdiction”).

23 In other words, § 1252(g) removes district court jurisdiction over “three discrete
24 actions that the Attorney may take: [his] ‘decision or action’ to ‘commence proceedings,
25 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482. Petitioner’s claims
26 necessarily arise “from the decision or action by the Attorney General to commence
27 proceedings [and] adjudicate cases” – over which Congress has explicitly foreclosed district
28 court jurisdiction. 8 U.S.C. § 1252(g). Thus, to the extent the habeas petition challenges the

1 Government's decision to commence expedited removal proceedings – which has not yet
2 happened – this claim is squarely prohibited by the plain language of 8 U.S.C. § 1252(g).

3 Moreover, under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law and
4 fact...arising from any action taken or proceeding brought to remove an alien from the United
5 States...shall be available only in judicial review of a final order under this section.” Judicial
6 review of a final order is available only through “a petition for review filed with an appropriate
7 court of appeals.” 8 U.S.C. § 1252(a)(5). The Supreme Court has plainly held that §
8 1252(b)(9) is “the unmistakable ‘zipper’ clause,” channeling “judicial review of all”
9 “decisions and actions leading up to or consequent upon final orders of deportation,”
10 including “non-final order[s]” into proceedings before a court of appeals. *Reno*, 525 U.S. at
11 483, 485; *see J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (noting that § 1252(b)(9)
12 is “breathtaking in scope and vise-like in grip and therefore swallows up virtually all claims
13 that are tied to removal proceedings. Taken together, § 1252(a)(5) and § 1252(b)(9) mean
14 that *any* issue – whether legal or factual – arising from any removal-related activity can be
15 reviewed *only* through the [petition for review] PFR process” (Emphasis in original; citations
16 omitted). Further, “while these sections limit how immigrants can challenge their removal
17 proceedings, they are not jurisdiction-stripping statutes that, by their terms, foreclose *all*
18 judicial review of agency actions. Instead, the provisions channel judicial review over final
19 orders of removal to the courts of appeal.” *Id.* at 1035 (emphasis in original); (“§§ 1252(a)(5)
20 and [(b)(9)] channel review of all claims, including policies-and-practices
21 challenges...whenever they ‘arise from’ removal proceedings”). *Id.* Thus, Petitioner’s
22 challenges to the Government’s decision to seek dismissal of INA § 240 proceedings to pursue
23 INA § 235 proceedings are foreclosed by §§ 1252(a)(5) and (b)(9), aside from § 1252(g).
24 Even if the BIA affirms the IJ’s decision to dismiss Petitioner’s INA § 240 proceedings, which
25 has not yet happened, that decision could not be challenged here in U.S. District Court – but
26 only to the relevant Federal Circuit Court of Appeal. 8 U.S.C. § 1252(a)(5).

27 Moreover, even if Petitioner were placed in expedited removal proceedings, which
28 has not yet happened, “[s]ection 1252(a)(2)(A) is a jurisdiction-stripping and channeling

1 provision, which bars review of almost ‘every aspect of the expedited removal process.’”
2 *Azimov v. U.S. Dep’t of Homeland Sec.*, 2024 WL 687442, at *1 (9th Cir. Feb. 20, 2024),
3 quoting *Mendoza-Linares v. Garland*, 51 F.4th 1146, 1154 (9th Cir. 2022) (describing the
4 operation of § 1252(a)(2)(A)). These jurisdiction-stripping provisions cover “the ‘procedures
5 and policies’ that have been adopted to ‘implement’ the expedited removal process; the
6 decision to ‘invoke’ that process in a particular case; the ‘application’ of that process to a
7 particular alien; and the ‘implementation’ and ‘operation’ of any expedited removal order.”
8 *Mendoza-Lineras*, 51 F.4th at 1155.

9 Thus, the habeas petition should be denied to the extent this Court lacks jurisdiction
10 over the issues raised in the petition under 8 U.S.C. § 1252.

11 **V. Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A)**
12 **which comports with his procedural and substantive due process rights.**

13 Section 1225 applies to “applicants for admission,” such as Petitioner, who are
14 defined as “alien[s] present in the United States who [have] not been admitted” or “who
15 arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one
16 of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”
17 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

18 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially
19 determined to be inadmissible due to fraud, misrepresentation, or lack of valid document.”
20 *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited removal
21 proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply
22 for asylum...or a fear of persecution,” immigration officers will refer the alien for a credible
23 fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is
24 “detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If
25 the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is
26 “found not to have such a fear,” they are detained until removed from the United States. *Id.*
27 §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

28 Section 1225(b)(2) “applies to all applicants for admission not covered by §
1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be

1 detained for a removal proceeding “if the examining immigration officer determines that [the]
2 alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C.
3 § 1225(b)(2)(A); see *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens arriving
4 in and seeking admission into the United States who are placed directly in full removal
5 proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention
6 ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). However,
7 DHS has the sole authority to temporarily release on parole “any alien applying for admission
8 to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant
9 public benefit.” *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

10 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C. §
11 1225(b) and stated that “[r]ead most naturally, §§ 1225(b)(1) and (b)(2) [] mandate detention
12 of applicants for admission until certain proceedings have concluded.” 583 U.S. at 297. The
13 Court noted that neither § 1225(b)(1) nor § 1225(b)(2) “impose[] any limit on the length of
14 detention” and “neither “say[] anything whatsoever about bond hearings” (*Id.*) – one of
15 Petitioner’s claims. The Court added that the sole means of release for noncitizens detained
16 under §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary parole at
17 the Attorney General’s discretion under 8 U.S.C. § 1182(d)(5). *Id.* at 300. The Court
18 observed that because aliens held under § 1225(b) may be paroled for “urgent humanitarian
19 reasons or significant public benefit,” “[t]hat express exception to detention implies that there
20 are *no* other circumstances under which aliens detained under 1225(b) may be released.” *Id.*
21 (citations and internal quotation omitted). Courts thus may not validly draw additional
22 procedural limitations “out of thin air.” *Id.* at 312. The Supreme Court concluded: “In sum,
23 §§ 1225(b)(1) and (b)(2) mandate detention of [noncitizens] throughout the completion of
24 applicable proceedings.” *Id.* at 302.

25 Since Petitioner is subject to mandatory detention and lawfully detained under 8 U.S.C.
26 § 1225(b)(2)(A), DHS was not required to show changed circumstances to detain him. Nor
27 did due process require a bond hearing prior to his detention. Moreover, due process did not
28 prohibit ICE from re-detaining him; there is no statutory or regulatory requirement that

1 entitles him to a “pre-detention” hearing, as he intimates. Doc. 10, Amended Petition, ¶¶ 47,
2 84, 85, 89, 90, and Prayer for Relief, ¶ 7. To read one into the immigration custody statute
3 would be to create a process that the current statutory and regulatory scheme do not provide
4 for. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 580-82 (2022). Thus, Petitioner can cite no
5 liberty or property interest to which due process protections attach, particularly where
6 Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

7 **VI. Petitioner’s Counts 1, 2 (and duplicative Count 5), alleging due process**
8 **violations, fail.**

9 The Supreme Court has long recognized that due process is limited when it comes to
10 Aliens seeking admission. Understanding the statutory interpretation of 8 U.S.C. § 1225(b)
11 and the rights it affords to “arriving aliens” like Petitioner, is critical.

12 First, to determine whether procedural protections satisfy the Due Process Clause,
13 courts consider three factors: (1) “the private interest that will be affected by the official
14 action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used,
15 and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the
16 Government’s interest, including the function involved and the fiscal and administrative
17 burdens that the additional or substitute procedural requirement would entail.” *Mathews v.*
18 *Eldridge*, 424 U.S. 319, 335 (1976).

19 The first factor favors Respondents. For “more than a century,” the Supreme Court
20 has held that the rights of such noncitizens are confined exclusively to those granted by
21 Congress. *Thuraissigiam, supra*, 591 U.S. at 131; *see also Nishimura Ekiu*, 142 U.S. 651,
22 660 (1892) (with regard to “foreigners who have never been naturalized, nor acquired any
23 domicile or residence within the United States, nor even been admitted into the country
24 pursuant to law,” “the decisions of executive or administrative officers, acting within powers
25 expressly conferred by Congress, are due process of law.”); *Landon v. Plasencia*, 459 U.S.
26 21, 32 (1982) (“This Court has long held that an alien seeking initial admission to the United
27 States requests a privilege and has no constitutional rights regarding his application, for the
28 power to admit or exclude aliens is a sovereign prerogative”). *See also Shaughnessy v. United*
States ex rel. Mezei, 345 U.S. 206, 212 (1953). The Court expressly rejected the same claim

1 Petitioner makes here, *i.e.*, that the Aliens' claims that their detention without a bond hearing
2 violated their Fifth Amendment Due Process rights. The Court held that "an alien on the
3 threshold of initial entry stands on a different footing: 'Whatever the procedure authorized by
4 Congress is, it is due process as far as an alien denied entry is concerned.'" *Id.*

5 The Supreme Court's view on this topic was reinforced in *Thuraissigiam*, a habeas
6 action involving an Alien, who, like Petitioner, sought initial entry to the United States and
7 was detained under 8 U.S.C. § 1225(b). He raised a Fifth Amendment Due Process Clause
8 challenge. 591 U.S. 106-07. The Supreme Court "reiterated th[e] important rule" (*Id.* at 138),
9 that an Alien seeking initial entry to the United States "has no entitlement" to any legal rights,
10 constitutional or otherwise, other than those expressly provided by statute. *Id.* at 107
11 ("Congress is entitled to set the conditions for an alien's lawful entry into this country and []
12 as a result [] an alien at the threshold of initial entry cannot claim any greater rights under the
13 Due Process Clause.").

14 Thus, Aliens' rights are confined exclusively to those granted by Congress. *Id.* at 137.
15 Further, a noncitizen seeking initial entry "has no entitlement to procedural rights other than
16 those afforded by statute"); *Id.* at 140 (an Alien seeking initial entry to the United States "has
17 only those rights regarding admission that Congress has provided by statute" and "the Due
18 Process Clause provides nothing more[.]").

19 The second *Mathews* factor also favors Respondents. Under the existing procedures,
20 Aliens including Petitioner face little risk of erroneous deprivation. As explained above, there
21 is no risk of erroneous deprivation because no due process right to a bond hearing exists under
22 8 U.S.C. §1225(b)(2).

23 The third *Mathews* factor – the value of additional safeguards relative to the fiscal and
24 administrative burdens that they would impose – weighs heavily in favor of Respondents.
25 There is no administrative process in place for giving an arriving alien subject to mandatory
26 detention a bond hearing before an IJ, because the statute does not provide for one.
27 Respondents recognize that Petitioner is making an individualized challenge. However, the
28 additional procedure he is requesting would have a significant impact on the removal system.

1 It would require ICE and the Executive Office of Immigration Review to set up a novel
2 administrative process for Petitioner who – for all intents and purposes – is subject to
3 mandatory detention without a bond hearing. Therefore, considering all of the *Mathews*
4 factors together, no due process violation occurred; nor does due process require a pre-
5 detention hearing for arriving aliens such as Petitioner subject to mandatory detention, as
6 stated in Section VIII.

7 **VII. Petitioner’s arrest did not violate his Fourth Amendment rights.**

8 Despite Petitioner’s allegations, his arrest did not violate his Fourth Amendment rights.
9 The legality of an arrest of an alien based upon civil immigration violations is well
10 established. *Abel v. United States*, 362 U.S. 217, 230 (1960) (“Statutes authorizing
11 administrative arrest to achieve detention pending deportation have the sanction of time.”).
12 The statute authorizing the warrantless arrest of an alien by an ICE officer does not expressly
13 require probable cause but authorizes the arrest if the officer “has reason to believe” that the
14 alien is in the United States in violation of a law governing admission or removal of aliens
15 and is likely to escape before a warrant is issued. 8 U.S.C. § 1357(a)(2). ICE had reason to
16 believe Petitioner was unlawfully present in the United States without having been admitted.
17 Therefore, his arrest did not violate his Fourth Amendment rights.

18 **VIII. Petitioner is not entitled to a new pre-detention hearing in the future.**

19 Second, no statutory or regulatory requirement entitles Petitioner to an additional “pre-
20 deprivation” hearing at some undefined date when he might be re-arrested in his Amended
21 Petition (*see e.g.*, Doc. 10, ¶¶ 47, 84, 85, 89, 90, and Prayer for Relief, ¶ 7) – much less one
22 involving burden-shifting against the government. *See generally* 8 U.S.C. § 1231(a)(6); 8
23 C.F.R. § 241.4. For this Court to read one into the immigration custody statute would be to
24 create a process that the current statutory and regulatory scheme do not contemplate or
25 specify. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 580-82 (2022). Thus, Petitioner can cite
26 no liberty or property interest to which due process protections attach.

27 Further, the Supreme Court has upheld the constitutionality of basic processes of
28 providing hearings post-detention. *Reno v. Flores*, 507 U.S. 292, 309 (1993) (rejecting a

1 procedural due process claim that “the INS procedures are faulty because they do not provide
2 for automatic review by an immigration judge (IJ) of the initial deportability and custody
3 determinations”); *Abel*, 362 U.S. at 233-34 (noting the “impressive historical evidence of
4 acceptance of the validity of statutes providing for administrative deportation arrest from
5 almost the beginning of the Nation”). Instead of a guarantee of pre-detention review by an
6 IJ, aliens detained are provided with multiple avenues to seek review of their detention once
7 they are in custody – a process which the Ninth Circuit has already held is constitutionally
8 sufficient. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196-97 (9th Cir. 2022). The Ninth
9 Circuit held that that the “existing agency procedures” sufficiently protect liberty interest of
10 aliens and “mitigate the risk of erroneous deprivation.” *Id.* at 1209. (“In short, the agency’s
11 decision to detain Rodriguez Diaz was subject to numerous levels of review, each offering
12 Rodriguez Diaz the opportunity to be heard by a neutral decisionmaker.) These procedures
13 ensured that the risk of erroneous deprivation would be ‘relatively small,’” *quoting Yagman*
14 *v. Garcetti*, 852 F.3d 859, 865 (9th Cir. 2017).

15 Other courts, including those in this judicial circuit, have rejected the premise that the
16 Constitution requires an extra hearing before an alien can be arrested under 8 U.S.C. §
17 1226(b). *United States v. Cisneros*, 2021 WL 5908407, at *4 (N.D.Cal. Dec. 14, 2021) (“[t]he
18 law does not require a hearing before arrest” where a noncitizen released from ICE custody
19 had been picked up by the San Francisco Police Department for assault). Other courts have
20 also recognized that there is no “due process right to a pre-detention hearing where a
21 noncitizen, subject to pending removal proceedings...is at risk of being re-detained after being
22 at liberty for more than two years.” *Reyes v. King*, 2021 WL 3727614, at *11 (S.D.N.Y. Aug.
23 20, 2021); *accord Salvador F.-G. v. Noem*, 2025 WL 1669356, at *8 (N.D.Okla. June 12,
24 2025) (“On careful consideration of the statute, the implementing regulations, and the BIA’s
25 decisions in *Sugay* and *Valles-Perez*, the Court rejects petitioner’s claim that the DHS has no
26 authority to revoke a bond issued by an immigration judge.”).

27 Thus, the procedural process provided to Petitioner, if he is ever re-detained, is
28 constitutionally adequate, and no additional process is required. “Procedural due process

1 imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or
2 ‘property’ interests within the meaning of the [Fifth Amendment] Due Process Clause.”
3 Mathews, 424 U.S. at 332. “The fundamental requirement of [procedural] due process is the
4 opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Id.* at 333,
5 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

6 **IX. Conclusion.**

7 For all the foregoing reasons, the Amended Petition for Writ of Habeas Corpus and
8 Complaint for Declaratory Relief must be denied.

9 RESPECTFULLY SUBMITTED October 22, 2025.

10 TIMOTHY COURCHAIINE
11 United States Attorney
12 District of Arizona

13 s/ Laurence G. Tinsley Jr.
14 LAURENCE G. TINSLEY, Jr.
15 Assistant United States Attorney
16 *Attorneys for Respondents*

17
18
19
20
21
22
23
24
25
26
27
28