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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

HAMIDEH SADEQI,

Petitioner,

v.

CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center, in his official capacity *et al.*,

Respondents.

Case No. 3:25-cv-2587-RSH-BJW

RETURN IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Hearing Date: November 13, 2025
Hearing Time: 1:30 P.M.
Courtroom 3B
JUDGE: Hon. Robert S. Huie

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INTRODUCTION

Federal Respondents, U.S. Department of Homeland Security ("DHS"), et al., hereby file their return in opposition to the Petition for a Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief ("Petition") as directed by the Court in its October 3, 2025 order. *See* ECF No. 3.

This Court must either dismiss or deny the instant habeas petition. The Petitioner, Ms. Hamideh Sadeqi, is a citizen of Afghanistan. She is in removal proceedings under 8 U.S.C. § 1229a and remains subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(ii) ("If the [immigration] officer determines . . . that an alien has a credible fear of persecution . . ., the alien shall be detained"). Critically, the provision contains an endpoint for detention, namely, "for further consideration of the application for asylum." *Id.*

Ms. Sadeqi's habeas petition brings a single count alleging a due process violation under the Fifth Amendment attendant her continued detention. Critically, it rests upon two flawed premises: first, her detention is unlawful because a removal order is not reasonably foreseeable in her removal proceedings, and, second, that her detention serves no "legitimate" purpose under the INA. As discussed more fully *infra*, these premises are unsupported by legal authority or facts, contradict binding legal precedent, and present conclusory allegations or claims regarding Due Process. As such, Petitioner failed to meet the heightened pleading requirements necessary for a colorable habeas petition.

Even should this Court reach the claims directly, it still must deny habeas here. The due process count does not consider the repeated holdings by the Supreme Court of the United States and the Circuit Court of Appeals for the Ninth Circuit that an alien seeking admission at the border is entitled only to the process that Congress provides. *See, e.g., Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) ("[A]n alien seeking initial admission to the United States . . . 'has only those rights regarding admission that Congress has provided by statue.'"). Consequently, Ms. Sadeqi has received the process provided under 8 U.S.C. § 1225(b)(1).

Nevertheless, if the Court engages in a sort of weighing analysis, the result still warrants continued detention. The facts alleged in the instant petition indicate that Petitioner's removal proceedings have advanced to the individual merits phase, that the immigration court partially completed her merits hearing, and that she is scheduled to finish her merits hearing on December 2, 2025—a definite period and almost exactly one year from the date of her initial detention. For the reasons discussed below, her detention is neither indefinite nor prolonged as to give rise to a due process violation under the Fifth Amendment.

STATUTORY & REGULATORY BACKGROUND

I. Applicants for Admission, Arriving Aliens, and 8 U.S.C. § 1225(b).

The Immigration and Nationality Act ("INA") defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated point of arrival . .

.)." 8 U.S.C. § 1225(a)(1); *see also Jennings v. Rodriguez*, 583 U.S. 287 (2018). The category of "arriving alien" includes a person who is "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1001.1(q). *See Matter of M-S-*, 27 I. & N. Dec. 509, 510 (A.G. 2019).

Generally, "applicants for admission 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. When the "examining" official "determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted," then that noncitizen is placed in proceedings under § 1229a. 8 U.S.C. § 1225(b)(2)(A). In short, § 1229a proceedings are "full removal proceedings." *Matter of M-S-*, 27 I. & N. Dec. at 510.

Conversely, noncitizens who meet certain qualifications are subject to "expedited removal." *See* 8 U.S.C. § 1225(b)(2); *Matter of M-S-*, 27 I. & N. Dec. at 509-10. In expedited removal, a noncitizen who requests asylum also receives an opportunity to establish that she has a credible fear of persecution in her home country. 8 U.S.C. §§ 1225(b)(1)(A)(ii), (b)(1)(B).

In some circumstances, an immigration official may determine that a noncitizen qualifies for full removal proceedings under § 1225(b)(2), and for expedited removal under § 1225(b)(1). When that happens, then "[t]he government has discretion to place noncitizens in standard removal proceedings even if the expedited removal statute could be applied to them." *Flores v. Barr*, 934 F.3d 910, 916-17 (9th Cir. 2019), *citing Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. at 520,

524 (BIA 2011); *see also Innovation Law Lab v. McAleenan*, 924 F.3d 503, 508 (9th Cir. 2019) ("Section 1225(b)(2)(A) is thus a 'catchall' provision . . ., and Congress' creation of expedited removal did not impliedly preclude the use of § 1229a removal proceedings"); *Matter of M-S-*, 27 I. & N. Dec. at 510 (stating "DHS may place him in either"). In that event, the noncitizen does not suffer any prejudice, because he "was effectively treated as though []he passed the credible fear interview—no better outcome could have resulted from having a credible fear interview." *de Ramirez v. Rosen*, 842 F. App'x 83, 85 (9th Cir. 2021).[1]

II. Sections 1225(b)(1) and (b)(2) Both Require Detention.

ICE must detain noncitizens under both § 1225(b)(1) and (b)(2). For expedited removal proceedings under (b)(1), the DHS must detain any noncitizen who seeks a determination that he has a credible fear of persecution if returned to his home country. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). In that circumstance, the noncitizen "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." *Id.* Should ICE determine that the noncitizen possesses a credible fear of persecution, the "the alien shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii). The mandatory detention under § 1225(b)(1)(B)(ii) continues "for so long as that

[1] *See also Matter of Q. Li*, 29 I. & N. Dec. 66, 70 (BIA 2025) ("the respondent's continued detention is mandated by" both 8 US.C. §§ 1225(b)(1) and (b)(2)).

review is ongoing" and "until removal proceedings conclude." *Matter of M-S-*, 27 I. & N. Dec. at 516.

ICE must also detain noncitizens pursuant to § 1225(b)(2). Specifically, once an immigration officer invokes this provision, then the noncitizen "shall be detained" for full removal "proceedings under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). Sections "1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded" for stated, respectively, in § 1225(b)(1)(B)(ii) and § 1225(b)(2)(A). *Jennings*, 583 U.S. at 297. Until those endpoints have been reached, "nothing in the statutory text imposes any limit on the length of detention." *Id.*

RELEVANT FACTUAL & PROCEDURAL BACKGROUND

Petitioner is Ms. Hamideh Sadeqi, a citizen of Afghanistan. ECF No. 1 ¶ 3. On December 1, 2025, she arrived at the San Ysidro, California Port of Entry for an appointment to apply for admission to the United States. *Id.* ¶ 14. The DHS subsequently placed her in civil immigration detention. *Id.* On December 12, 2024, Ms. Sadeqi received a credible fear interview conducting by an asylum officer who determined she possessed a credible fear of persecution in Afghanistan. *Id.* ¶¶ 15-16. On December 21, 2024, the DHS issued Petitioner a Notice to Appear, "charging her as an arriving alien" and subsequently placed her into § 1229a removal proceedings. *Id.* ¶ 16, 18. She filed an application for asylum on January 28, 2025. *Id.* ¶ 19. On January 29, 2025, she appeared for a master calendar hearing where

pleadings were taken by the immigration judge. *Id.* ¶ 18.

Prior to her master calendar hearing on February 5, 2025, Ms. Sadeqi was transferred to the San Luis Detention Center in San Luis, Arizona, and the presiding immigration judge issued a scheduling order setting her matter for an individual merits hearing on July 8, 2025. *Id.* ¶¶ 18-20. Respondent was returned to Otay Mesa Detention Center in San Diego, California; however, on "June 7, 202[5]," she was returned to San Luis Detention Facility. *Id.* ¶ 21. On June 25, 2025, Petitioner's matter was reset to for a merits hearing on August 26, 2025, after her case was reassigned to a different immigration judge. *Id.* ¶ 22. The immigration judge conducted a merits hearing on August 26, 2025; however, due to time constraints, the immigration judge continued proceedings until December 2, 2025, to allow time completion the merits hearing. *Id.* ¶ 23.

Petitioner has never moved for bond redetermination. *Id.* ¶ 17. Petitioner has never been paroled under § 1182(d)(5)(A). *See e.g.*, *id.* ¶ 14. She remains in mandatory detention pursuant to § 1225(b)(1)(B)(ii) until further consideration of her asylum application and completion of her removal proceedings.

JURISDICTION & STANDARD OF REVIEW

The "district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotation omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act

of 1789 to the present day . . . ." *Thuraissigiam*, 591 U.S. at 125 n.20. Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions.

Habeas Corpus Rule 2(c), which the Court should apply in this 28 U.S.C. § 2241 action, "provides that the petition must 'specify all the grounds for relief available to the petitioner' and 'state the facts supporting each ground.'" *Mayle v. Felix*, 545 U.S. 644, 655 (2005)); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) ("Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief."); *Davydov v. Casey*, No. 25-cv-845-RSH-AHG, 2025 LX 272455, at *8 (S.D. Cal. July 21, 2025) (Huie, J.) (applying the Habeas Rules to a § 2241 habeas petition). Petitioner bears the burden to prove she is entitled to the granting of the writ of habeas corpus by demonstrating that her custody violates the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004); *Snook v. Wood*, 89 F.3d 605, 609 (9th Cir. 1996).

"[N]otice pleading is not sufficient, for the petition is expected to state facts that point to a 'real possibility of constitutional error.'" *O'Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1990) (quoting *Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977) (internal quotations omitted)).; *see also Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir 1990) ("Summary dismissal is appropriate only where the allegations in the petition are 'vague [or] conclusory' or 'palpably incredible' or 'patently frivolous or false.'" (citations omitted)). Similarly, "if the record refutes the

applicant's factual allegations or otherwise precludes habeas relief, a district court is not required to hold an evidentiary hearing." *See Schriro v. Landrigan*, 550 U.S. 465, 474 (2007).

ARGUMENT

I. At the Border, 8 U.S.C. § 1225(b) Authorized Ms. Sadeqi's Detention.

As an initial matter, ICE possessed statutory authority to process Ms. Sadeqi at the border under § 1225(b)(1). The plain text of the provision requires ICE to detain arriving aliens who articulate a fear of persecution until the credibility of that fear is assessed and they are subsequently removed if no credible fear is established, or further consideration is given to the alien's application for asylum if it is. 8 U.S.C. §§ 1225(b)(1)(A), (b)(1)(B)(ii).

A. ICE possesses detention authority under § 1225(b)(1)(B)(ii).

Ms. Sadeqi is an applicant for admission and an arriving alien. She is a citizen of Afghanistan and is therefore an alien. ECF No. 1 ¶¶ 3, 14; 8 U.S.C. § 1101(a)(3) ("'alien' means any person not a citizen or national of the United States"). Additionally, on September 19, 2024, she arrived at the San Ysidro port-of-entry in the United States; therefore, she meets the criteria for an applicant for admission. ECF No. 1 ¶ 14; 8 U.S.C. § 1225(a)(1) (defined to include an alien who arrives in the United States). Furthermore, she is an arriving alien, pursuant to 8 C.F.R. § 1001.1(q), which includes an "applicant for admission coming or attempting to come

into the United Sates at a port-of-entry." As an applicant for admission who attempted to come into the United Stated by seeking admission at a port of entry, she satisfies those criteria.

As an applicant for admission, § 1225(a) governed her inspection. *See id.* at (a)(1), (a)(3). While detained at the border, Petitioner "expressed a fear of returning to her country of citizenship, Afghanistan, [and] was placed in credible fear proceedings." ECF No. 1 ¶ 14. Assuming that to be true, ICE's inspection authority derived from § 1225(b)(1)(A)(ii), as evinced by her inadmissibility at the time of inspection and the initiation of credible fear proceedings. ECF No. 1 ¶¶ 15-16. Upon determination that Ms. Sadeqi possessed a credible fear of persecution in her country of citizenship, she was issued a Notice to Appear and placed in § 1229a removal proceedings. *Id.*

An arriving alien who establishes a credible fear of persecution during the expedited removal process, like Ms. Sadeqi, is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(ii). Additionally, such an arriving alien "*shall* be detained for further consideration of the application for asylum." *Id.* (emphasis added). Therefore, Petitioner was and remains subject to mandatory detention pending completion of proceedings regarding her application for asylum—in this case, a determination by the immigration judge and conclusion of her removal proceedings. *Id.*; ECF No. 1 ¶ 19, 23 (indicating she filed an application for asylum and is currently awaiting her next hearing to finish the merits phase of her proceedings).

B. Petitioner's detention under 8 U.S.C. § 1225(b)(1)(B)(ii) does not violate Due Process.

Detention authority under § 1225(b) neither expires nor vitiates upon commencement of or continuation of removal proceedings. As previously indicated, arriving aliens detained under § 1225(b)(1)(B)(ii) are required to be detained for the consideration of their application for asylum. Moreover, an alien detained under § 1225(b)(1) is not entitled to release or a bond hearing by statute. In *Jennings*, the Supreme Court observed, "[r]ead most naturally, §§ 1225(b)(1) and (b)(2) [ ] mandate detention of applicants for admission until certain proceedings have concluded," and that neither provision "imposes any limit on the length of detention" or "says anything whatsoever about bond hearings." 583 U.S. at 297. The Court added that aliens detained under these provisions may be temporarily paroled at the discretion of the Attorney General under § 1182(d)(5)(A), and "[t]hat express exception to detention implies that there are no *other* circumstances under which aliens detained under § 1225(b) may be released." *Id.* at 300. The Court concluded, "[i]n sum, §§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Id.* at 302.

This conclusion conforms with the long-running understanding that the due process rights of applicants for admission are limited. "Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is

concerned." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (citation and quotation omitted). This principle was affirmed in *Thuraissigiam*, when the Court held that "an alien at the Threshold of initial entry" has no procedural due process rights "other than those afforded by statute." 591 U.S. at 107; *see id.* at 140.

In applying *Thuraissigiam*, the Ninth Circuit addressed a petition for review of an arriving alien placed into expedited removal proceedings under § 1225(b)(1). *In Mendoza-Linares v. Garland*, the Ninth Circuit concluded:

> *Thuraissigiam* reaffirmed that "'an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application,'" meaning that such an alien "has only those rights regarding admission that Congress has provided by statute." 140 S. Ct. at 1982-83 (citation omitted). Accordingly, any rights Mendoza-Linares may have in regard to removal or admission are purely statutory in nature and are not derived from, or protected by, the Constitution's Due Process Clause.

51 F.4th at 1167. Repeatedly, the Ninth Circuit reiterated that the rights of an arriving alien subject to expedited removal proceedings, a petitioner's rights are restricted to those set forth by statute. *See id.* at 1164 (quoting *Thuraissigiam*, 591 U.S. at 139) (noting "an arriving alien 'has no constitutional rights regarding his application,' [and] '[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned'" and thereafter concluding that "[b]ecause the 'procedure authorized by Congress' here purposefully precludes resort to the courts, that denial of judicial review cannot be said to deny due process."); *see also Guerrier v. Garland*, 18 F.4th 304, 310 (9th Cir. 2021) ("[I]n the expedited removal context,

a petitioner's due process rights are coextensive with the statutory rights Congress provides."); *Rauda v. Jennings*, 8 F.4th 1050, 1058 (9th Cir. 2021) ("Congress has already balanced the amount of due process available to petitioners with the executive's prerogative to remove individuals, and we decline to expand judicial review beyond the parameters set by Congress.").

Several courts have cited *Thuraissigiam* as support for their holdings that arriving aliens detained under § 1225(b)(1) do not have a due process right to release or a bond hearing after being detained for a certain period of time. *See Rodriguez Figueroa v. Garland*, 535 F. Supp. 3d 122, 126-27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 578-79 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021). Other Circuits also agree that due process rights are limited to what is provided by statute. *See Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 300 (3d Cir. 2020) ("Tazu's constitutional right to habeas likely guarantees him no more than the relief he hopes to avoid—release into 'the cabin of a plane bound for [Bangladesh].'" (quoting *Thuraissigiam*, 591 U.S. at 119)); *United States v. Guzman*, 998 F.3d 562, 569 (4th Cir. 2021) ("On that issue and with the support of *Thuraissigiam*, we hold that the Due Process Clause did not entitle Guzman to counsel when apprehended at the border and promptly removed."); *Martinez v. LaRose*, 980 F.3d 551, 552 (6th Cir. 2020) (Thapar, J., concurring) ("When an alien attempts to cross our border illegally, the Due Process Clause does not require the

government to release him into the United States. Instead, the government may detain him while it arranges for his return home.").

Petitioner cites only two authorities to the contrary, and neither aids her here. ECF No. 1 ¶ 35. First, *Kydyrali v. Wolf*, which granted habeas after adopting a six-factor balancing test, concluded "that an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process." 499 F. Supp. 3d 768, 772-73 (S.D. Cal 2020); *see also Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019). Notably, *Kydyrali* read the Supreme Court's decision in *Jennings v. Rodriguez* to hold "only that detained aliens are not *statutorily* entitled to periodic bond hearings." 499 F. Supp. 3d at 770; *but see Thuraissigiam*, 591 U.S. at 107; *see e.g.*, *Jennings*, 583 at 302 ("In sum, §§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin."). Notwithstanding *Kydyrali*'s narrow reading of the Supreme Court's holding in *Jennings*, *Kydyrali* does not square with the Supreme Court's holding in *Thuraisigiam* or *Mendoza-Linares*, 51 F.4th at 1167. The holding of stretches Due Process beyond what is afforded individuals subject to mandatory detention under § 1255(b)(1). Consequently, *Kydyrali* is unavailing in determining whether a Due Process violation has occurred in the instant case.

Second, Petitioner avers that her detention is "presumptively unreasonable" because it is "well beyond the . . . six-month period set forth in *Zadvydas*." ECF No. 1 ¶ 39; *see Zadvydas v. Davis*, 533 U.S. 678, 701 (2011). Nevertheless, this argument

is equally unmoored from the law, because the Supreme Court has explicitly rejected a finding that § 1225(b) contemplates any such reasonableness period. *See Jennings*, 583 U.S. at 283 ("Nothing in the text of § 1225(b)(1) or §1225(b)(2) hints that those provisions have an implicit 6-month time limit on the length of detention."). As such, her reliance on *Zadyvdas* is thoroughly unavailing.

C. Petitioner does not plainly show that she is entitled to the relief requested—e.g., bond or release.

In sum, Ms. Sadeqi remains in detention pursuant to § 1225(b)(1)(B)(ii) which requires detention pending further consideration of her asylum claim. Section 1225(b)(1) does not afford her a right to a release determination or bond hearing by this Court or before an immigration judge. The sole mechanism authorizing her release from immigration detention lies in temporary parole under § 1182(d)(5)(A). But here, ICE has not elected to parole Ms. Sadeqi. *See* ECF No. 1 ¶ 14. Moreover, the decision of the agency to parole an applicant for admission or arriving alien under § 1182(d)(5)(A) is wholly committed to the agency's discretion, and unreviewable. *Torres v. Barr*, 976 F.3d 918, 931 (9th Cir. 2020) (holding that neither a court nor an immigration judge can review the question of whether parole should be granted or denied under § 1182(d)(5)(A)).

II. Petitioner's Fifth Amendment Cause of Action Relies on Conclusory Arguments Unsupported by the Facts Alleged.

This Court should dismiss Ms. Sadeqi's petition for the additional reason that her Petition fails to state a viable Fifth Amendment claim. The Supreme Court has

made clear that the Constitution provides only limited due process rights to someone in Petitioner's situation, as an "alien on the threshold of initial entry." *Shaughnessy*, 345 U.S. 206, 212 (1953). In her current circumstances, she "stands on a different footing," so that "whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." *Id.* at 212 (cleaned up). *See also Mendoza-Linares*, 51 F.4th at 1148 (quoting *Thuraissigiam*, 591 U.S. at 139). Because she has been and is receiving the process Congress allowed, no Fifth Amendment violation occurred.

Ms. Sadeqi makes allegations in her cause of action which are conclusory and unsupported by specific facts in her Petition. *See e.g.*, *James*, 24 F.3d at 26 ("Conclusory allegations which are not supported by a statement of specific facts do not warrant habeas relief."). First, Petitioner avers that because "there is no final order of removal, and there doesn't appear to be one in the reasonably foreseeable future" her continued detention is unlawful.[2] ECF No. 1 ¶ 34. As previously discussed, Petitioner's only authorities are inconsistent with Supreme Court and Ninth Circuit jurisprudence post-*Thuraissigiam*. *Supra* at 13-14; *Cf. Mendoza-Linares*, 51 F.4th at 1164; *Guerrier*, 18 F.4th at 310; *Rauda*, 8 F.4th at 1058.

[2] While Petitioner's exact words were "her detention no longer serves any legitimate purpose under the INA," Respondents are giving liberal construction to the phrase in light of the authorities cited for the proposition that her detention has allegedly been unreasonably prolonged in violation of the Due Process Clause of the Fifth Amendment. *See e.g.*, ECF No. 1 ¶ 34-35.

Furthermore, Ms. Sadeqi makes no attempt to distinguish *Mezei*, *Thuraissigiam*, or *Mendoza-Linares*. *See e.g.*, ECF No. 1 ¶¶ 35-39. Additionally, multiple district court decisions rely on *Mezei* to deny habeas claims based on due process to noncitizens detained under § 1225(b). *See Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 650 (S.D.N.Y. 2018); *Petgrave v. Aleman*, 529 F. Supp. 3d 1202 (D.N.M. 2020); *D.A.V.V. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:20-CV-159-WLS-MSH, 2020 WL 13240240, at *6 (M.D. Ga. Dec. 7, 2020) (magistrate judge decision).

Moreover, Petitioner's assertion that removal in the instant case is "not reasonably foreseeable" is conclusory, since it is not supported by the facts alleged in her Petition. In fact, her assertion is legally erroneous and contradicts the facts as plead in her Petition. Detention under § 1225(b)(1)(B)(ii) is mandatory "for further consideration of the application for asylum." Taken as true, Ms. Sadeqi's Petition establishes that she (1) is currently in §1229a removal proceedings, (2) has filed her application for asylum, (3) partially presented her case before the immigration judge in an individual merits hearing, and (4) is set for a continued merits hearing on December 2, 2025, to present the remainder. ECF No. ¶¶ 16-19, 22-23. In sum, both the statute and the facts provide a definite, foreseeable period for considering her asylum application and concluding removal proceedings, and her conclusory assertion to the contrary is not a sufficient basis to grant her habeas petition on due process grounds.

Petitioner also alleges irreparable harm arising from her detention;

specifically, that "continued detention puts her mental health at greater risk." ECF No. 1 ¶ 30. However, the Petition cites no specific examples of harm, mental or physical, that are suffered by Ms. Sadeqi while in civil detention. *See generally* ECF No. 1. Moreover, the sole authority cited merely identifies an instance where underlying facts allowed the presiding magistrate to find tangible harms attendant that petitioner's detention. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020) (finding "significant psychological effects from [ ] detention, including anxiety caused by the threats of other inmates and two suicide attempts"). By contrast, the instant Petition contains no analogous allegations.

Accordingly, Petitioner's conclusory allegations unsupported by specific facts are insufficient to support her sole cause of action, and the Court should dismiss her petition.

III. If This Court Nonetheless Considers Ms. Sadeqi's Arguments Directly, It Should Still Deny Habeas Relief.

Finally, even if this Court does consider Petitioner's Due Process arguments as presented, it should rule against her and deny habeas. As discussed above, an alien at the border who is seeking admission to the United States has the right only to whatever process Congress offers. *See Thurassigiam*, 591 U.S. at 139; *Mezei*, 345 U.S. at 212; *see also Mendoza-Linares*, 51 F.4th at 1148. As such, given that §1225(b)(1)(B)(ii) mandates detention for consideration of her application for

asylum, whatever due process right Ms. Sadeqi believes she has as an inadmissible arriving alien does not include release from immigration detention.

Importantly, § 1225(b)(1)(B)(ii) is neither "indefinite" nor "prolonged" and anticipates an end to detention—"until certain proceedings have concluded." *Jennings*, 583 U.S. at 297. For Petitioner, it remains the adjudication of her application for asylum by the immigration judge and conclusion of her removal proceedings. Moreover, Petitioner fails to address how *Thuraissigiam*, *Mezei*, or *Mendoza-Linares* apply to a person detained pursuant to § 1225(b)(1). Indeed, the Petition neglects to mention any of these cases.

To the extent some courts have found an arriving alien's detention offends due process, none of the cases Ms. Sadeqi relies on support her claim that her approximately ten-month detention warrants judicial intervention. *See Banda*, 285 F. Supp. 3d 1118 ("the length of detention . . . is the most important factor"); *Arechiga v. Archambeault*, 2:23-CV-00600-CDS-VCF, 2023 WL 5207589, at *3 (D. Nev., 2023) ("an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process.'") (citing *Kydyrali*, 499 F. Supp. 3d at 772-73 (finding 17 months detention violated due process); *cf. Banda*, 385 F. Supp. 3d at 1106 (18 months detention violated due process); *Arechiga*, 2023 WL 5207589 (43 months detention violated due process); *Leke v. Holt*, 521 F. Supp. 3d 597, 605 (E.D. Va. 2021) (24 months detention violated due process). Absent a showing of unreasonably prolonged detention here, there is simply no grounds to

find a due process violation in support of Ms. Sadeqi's Petition.

Further rebutting Petitioner's authorities are cases from other district courts which applied *Mezei*'s reasoning to reject due process claims from aliens subject to § 1225(b) detention. *See Poonjani*, 319 F. Supp.3d at 650; *Petgrave*, 529 F. Supp. 3d at 679; *Gonzalez Aguilar v. Wolf*, 448 F. Supp. 3d 1202, 1202 (D.N.M. 2020); *D.A.V.V.*, 2020 WL 13240240, at *6.

Even when specific circumstances of a given precedent differ from the facts of a new case, the same general rule applies. As the court in *Poonjani* reasoned:

> [N]either the particular facts justifying the Petitioner's detention nor the subsequent changes in the immigration laws permit this Court to ignore the Supreme Court's categorical holding that, for aliens on the threshold of initial entry, '[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.'

319 F. Supp. 3d at 650 (citing *Mezei*, 345 U.S. at 212).

Or, as the Supreme Court explained, "an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Therefore, this Court should deny Count One of the habeas petition, because under the *Mezei* and *Thuraissigiam* paradigm, § 1225(b)(1) affords Ms. Sadeqi all the process she is due. That process was and is being followed here by her detention, credible fear interview, and placement into removal proceedings, and the facts and allegations contained in the Petition do not establish otherwise.

CONCLUSION

For the foregoing reasons, the Court should dismiss the Petition for Writ of Habeas Corpus.

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2025, I filed this document with the Clerk of the Court through the CM/ECF system, which will provide electronic notice and an electronic link to this document to all counsel of record.

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