IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

OSCAR ACUNA ZAVALA, Petitioner, V. KRISTI NOEM, Secretary of Homeland Security, ET AL., Respondents.	§ § § § § § § § § §	No. 3:25-cv-2691-L-BN

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Petitioner Oscar Acuna Zavala, detained by U.S. Immigration and Customs Enforcement ("ICE") at the Prairieland Detention Center, in the Dallas Division of this district, filed with the assistance of counsel an application for a writ of habeas corpus under 28 U.S.C. § 2241 that he then amended, arguing that his detention by immigration authorities without a bond hearing at least violates the Immigration and Nationality Act ("INA") and the due process clause of the United States constitution. *See* Dkt. Nos. 1 & 4.

United States District Judge Sam A. Lindsay referred Petitioner's habeas action to the undersigned United States magistrate judge for pretrial management under 28 U.S.C. § 636(b) and a standing order of reference.

After reviewing Petitioner's initial filings in this case, the undersigned determined that service and an expedited response from the United States Attorney's Office were required. *See* Dkt. No. 5. A response was filed. *See* Dkt. Nos. 10 & 11. And Petitioner replied. *See* Dkt. No. 12.

And, for the reasons discussed below, the Court should grant in part the amended habeas petition [Dkt. No. 4].

Applicable Background

According to Petitioner, he is "a citizen of Mexico [who] entered the United States without inspection approximately 24 years ago"; "[h]e is married to a U.S. citizen and is the father of five adult U.S. citizens, including two biological daughters and three stepdaughters"; and "[h]is youngest daughter recently turned 18 years old." Dkt. No. 4, ¶ 36.

Petitioner was detained by ICE in August 2025, has been held by Respondents at Prairieland without bond, and was denied a bond redetermination by an immigration judge ("IJ") on September 25, 2025 based on a recent decision of the Board of Immigration Appeals ("BIA") – *In re Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Dkt. No. 4, ¶¶ 37-39; Dkt. No. 4-1; *accord* Dkt. No. 10 at 7-8.

Legal Standards and Analysis

This habeas action is another in a flood of similar actions filed after the BIA eliminated the ability of IJs to make individualized bond determinations as to certain persons placed in removal proceedings. *See, e.g.*, Kyle Chaney, *More than 100 judges have ruled against the Trump admin's mandatory detention policy* (Oct. 31, 2025, 4:29 PM), https://www.politico.com/news/2025/10/31/trump-administration-mandatory-detention-deportation-00632086; Kyle Chaney, *More than 220 judges have now rejected the Trump admin's mass detention policy* (Nov. 28, 2025, 7:00 AM),

https://www.politico.com/news/2025/11/28/trump-detention-deportation-policy-00669861.

And at least one United States district judge in this district recently joined his colleagues by granting habeas relief in part and requiring that immigration officials provide a bond hearing. *See generally Parada-Hernandez v. Johnson*, No. 3:25-cv-2729-K-BN, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), *rec. accepted*, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025).

As background,

> [t]wo statutes in the [INA] principally govern [these] detention[s]: 8 U.S.C. §§ 1225 and 1226. Section 1226 provides the general process for arresting and detaining noncitizens who are present in the United States and eligible for removal. 8 U.S.C. § 1226. The Supreme Court has explained that Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting § 1226(a)). "[T]he Attorney General 'may release' an alien detained under § 1226(a) 'on bond or conditional parole.'" *Id.* (citation modified). But "aliens who are covered by § 1225(b)(2) are detained pursuant to a different process" and "'shall be detained for a [removal] proceeding' if an immigration officer 'determines that [they are] not clearly and beyond a doubt entitled to be admitted' into the country." *Id.* (quoting § 1225(b)(2)(A)). Hence, "noncitizens detained under section 1225(b)(2) must remain in custody for the duration of their removal proceedings, while those detained under section 1226(a) are entitled to a bond hearing before an IJ at any time before entry of a final removal order." *See, e.g., Rodriguez v. Bostock*, ___ F. Supp. 3d ____, 2025 WL 2782499, at *3 (W.D. Wash. Sept. 30, 2025).

Covarrubias v. Vergara, No. 5:25-CV-112, 2025 WL 2950097, at *2 (S.D. Tex. Oct. 8, 2025).

And "[t]he principal issue" in these cases "is whether [the habeas petitioner] has been erroneously categorized as a detainee subject to 8 U.S.C. § 1225(b)(2), which prescribes mandatory detention during removal proceedings, or if he [or she] is subject to 8 U.S.C. § 1226(a), which provides for discretionary detention and a bond hearing regarding whether the noncitizen is a flight risk or poses a danger to the community." *Id.*

Against this background, the undersigned turns to Petitioner's request for relief.

I. Exhaustion of Administrative Remedies

While Respondents do not appear to argue that the Court should deny Petitioner's claims because he has not exhausted administrative remedies, *see generally* Dkt. No. 10, the undersigned agrees with Petitioner, *see* Dkt. No. 4, ¶ 40, that he is not required to exhaust administrative remedies before the Court may properly consider his current claims, *see, e.g.*, *Parada-Hernandez*, 2025 WL 3465958, at *2-*3.

II. The INA

The undersigned first finds that detaining Petitioner without a bond hearing under Section 1225(b) violates the INA for the reasons succinctly explained in *Covarrubias*, 2025 WL 2950097, at *2, which, in turn, relied on almost every other federal district court – in this circuit and elsewhere – that has tackled this issue:

> [Petitioner] contends that he is being detained under Section 1226(a)

> and should have a bond hearing, but Respondents argue that he is subject to mandatory detention under Section 1225(b)(2), and therefore, not entitled to a bond hearing.
>
> The difference in interpretation emanates from the Government's recent reevaluation of immigration detention authority. The Department of Homeland Security (DHS) and Department of Justice (DOJ) released interim guidance on July 8, 2025, announcing a new legal position on detention and release authorities. The guidance interprets INA Section 235 (8 U.S.C. § 1225) as applying to the detention of all "applicants for admission," including all noncitizens who have not been admitted, whether or not they arrive at a port of entry.....
>
> [W]hether [Petitioner] falls under Section 1226(a) or 1225(b)(2) is a matter of statutory interpretation. Statutory interpretation is the province of the courts, not agencies. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024).
>
> The [undersigned] finds that Section 1226, not Section 1225, applies to [Petitioner's] detention. As almost every district court ... has concluded, "the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades" support application of Section 1226. *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) (Rosenthal, J.) (collecting cases).

Id. at *3 (cleaned up); *see also Buenrostro-Mendez*, 2025 WL 2886346, at *3 ("The court need not repeat the 'well-reasoned analyses' contained in these opinions and instead simply notes its agreement. The respondents have failed to provide controlling authorities or persuasive reasons that would justify reaching a different result. Section § 1226(a), not § 1225(b), applies to [the petitioner]." (cleaned up)).

III. Procedural Due Process

A. Availability of Procedural Due Process Protections

The undersigned also finds that detaining Petitioner without a bond hearing violates his Fifth Amendment rights.

In this case, Respondents elect not to expressly rely on *Department of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), to oppose Petitoner's due process arguments. *See* Dkt. No. 10 at 26-28.

Regardless, because the undersigned finds that Petitioner is erroneously categorized as detained under Section 1225(b)(2), the Court should reject Respondent's related argument that, because Section 1225 "says nothing 'whatsoever about bond hearings' ... [n]o procedural due process claim is stated." Dkt. No. 10 at 28 (quoting *Jennings*, 583 U.S. at 297).

And, to the extent that Respondents may rely on *Thuraissigiam* to deny this due process claim, the undersigned agrees with the court in *Lopez-Arevelo v. Ripa*, ___ F. Supp. 3d ____, No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025), and other courts in the Fifth Circuit that have found *Thuraissigiam* to be distinguishable in this context. *See* 2025 WL 2691828 at *7-10; *see also, e.g.*, *Vieira v. De Anda-Ybarra*, ___ F. Supp. 3d ____, No. EP-25-cv-432-DB, 2025 WL 2937880, at *4-5 (W.D. Tex. Oct. 16, 2025); *Gonzales Martinez v. Noem*, No. EP-25-cv-430-KC, 2025 WL 2965859, at *4 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, No. EP-25-cv-361-KC, 2025 WL 2792588, at *7-10 (W.D. Tex. Oct. 2, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-773-JKP, 2025 WL 2976923, at *7-8 (W.D. Tex. Oct. 21, 2025).

In *Thuraissigiam*, "[t]he [Supreme] Court did not address whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention, as [Petitioner] does here." *Lopez-*

Arevelo, 2025 WL 2691828, at *8. Unlike in *Thuraissigiam*, where the petitioner challenged his deportability and the denial of his asylum admission, Petitioner challenges his detention without a bond hearing. *See* 591 U.S. at 114-15.

In the context of detention under Sections 1225(b) and 1226(a), the United States Court of Appeals for the Fifth Circuit has "expressly left open the constitutional due process question" for lower courts to consider. *Lopez-Arevelo*, 2025 WL 2691828, at *8 (citing *Jennings*, 583 U.S. at 312).

The petitioner in *Thuraissigiam* was also stopped and detained "within twenty-five yards of the border" and was not released or permitted to reside in the United States. 591 U.S. at 114.

But Petitioner has resided in the United States for decades. *See* Dkt. No. 4, ¶ 36; *Lopez-Arevelo*, 2025 WL 2691828, at *9 (distinguishing *Thuraissigiam* because petitioner had resided in the United States for three years).

And, so, Petitioner is entitled to procedural protections under the Fifth Amendment's Due Process Clause. And the undersigned will consider his claim that his detention violates his due process rights.

B. *Mathews* Balancing Test

"To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (cleaned up). The three factors to consider are (1) "the private interest

that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335 (cleaned up). And "[t]he essence of due process is the requirement that 'a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Id.* at 348 (quoting *Joint Anti-Fascist Comm. v. McGrath*, 341 U.S. 123, 171-72 (1976) (Frankfurter, J., concurring)).

1. Private Interest

"Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process] Clause protects." *Vieira*, 2025 WL 2937880, at *6 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690(2001)). Even though Petitioner entered the United States without inspection, he has been present in our society for decades. And, based on that, the undersigned cannot find that he did not acquire a "cognizable interest in his freedom from detention that deserves great weight and gravity." *Vieira*, 2025 WL 2937880, at *6.

And, so, the first factor weighs in favor of Petitioner.

2. Risk of Erroneous Deprivation and Value of Additional Safeguards

As to the second factor, Petitioner is in custody. Without a bond hearing, he

will likely remain in custody. And the risk of an arbitrary deprivation is greater given the BIA's new interpretation of Section 1225(b)(2). *See Vieira*, 2025 WL 2937880, at *7, *Lopez-Arevelo*, 2025 WL 2691828, at *11.

"[A]gency decisionmakers regularly 'conduct[] individualized custody determinations ... consider[ing] flight risk and dangerousness.'" *Gonzales Martinez*, 2025 WL 2965859, at *4 (cleaned up). So a bond hearing would "give [Petitioner] the opportunity to be heard and receive a meaningful assessment of whether he is dangerous or likely to abscond." *Lopez-Arevelo*, 2025 WL 2691828, at *11.

And, so, a bond hearing would reduce the risk of an erroneous deprivation of Petitioner's liberty.

The second factor therefore weighs in favor of Petitioner.

3. Government's Interest

Respondents argue that the government has the constitutional power to detain Petitioner without bond "for the limited purpose of removal proceedings and determining his removability." Dkt. No. 10 at 27.

But they do not explain their interest in making those determinations while detaining Petitioner without bond.

And, in any event, the government's interest in ensuring that Petitioner appears for his removal proceedings "would be squarely addressed through a bond hearing." *Gonzalez Martinez*, 2025 WL 2965859, at *4.

And, so, because all three *Mathews* factors support Petitioner, the undersigned

finds that denying him a bond hearing under Section 1225(b)(2) deprives him of his procedural due process rights under the Fifth Amendment.

IV. Remaining Claims

Because the denial of a bond hearing at least violates Petitioner's procedural due process rights and the INA, the undersigned declines to address Petitioner's claims that Respondents have violated (1) *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), which stands for the proposition that an agency must abide by its own regulations, and (2) Petitioner's right to substantive due process, *see, e.g.*, *Santiago*, 2025 WL 2792588, at *6 n.2 ("[B]ecause the Court grants [the petition] on procedural due process grounds, the Court need not reach [the petitioner's] substantive due process ... claims.").

V. Remedy

Most courts confronting this issue have determined that the appropriate relief is a bond hearing. *See, e.g.*, *Parada-Hernandez*, No. 3:25-cv-2729-K-BN, Dkt. No. 19 (judgment) (requiring the respondents to give the petitioner in custody a bond hearing before an IJ within 14 days); *see also Lopez-Arevelo*, 2025 WL 2691828, at *12-13 (collecting cases); *Vieira*, 2025 WL 2937880, at *7 (collecting cases). And, so, the Court should order that Petitioner be given a bond hearing before an IJ and decline to award any other requested relief at this time.

Recommendation

The Court should grant in part Petitioner Oscar Acuna Zavala's amended

application for a writ of habeas corpus under 28 U.S.C. § 2241 [Dkt. No. 4] and require Respondents to provide him with a bond hearing before an immigration judge.

A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions, and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. ' 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judges' findings, conclusions, and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

DATED: December 8, 2025

DAVID L. HORAN
UNITED STATES MAGISTRATE JUDGE