

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILIANA DEL CISNE RUEDA TORRES,

Petitioner,

v.

LaDEON FRANCIS, *et al.*,

Respondents.

No. 25 Civ. 8408 (DEH)

**RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION
TO THE PETITION FOR A WRIT OF HABEAS CORPUS**

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The government respectfully submits this memorandum of law in opposition to the petition for a writ of habeas corpus filed on behalf of *pro se* petitioner Liliana Del Cisne Rueda Torres (“Rueda Torres”) by her next friend, Fabian Arias Dkt. No. 1, and in response to the order to show cause issued by the Court on October 14, 2025, Dkt. No. 6.

PRELIMINARY STATEMENT

Rueda Torres, a native and citizen of Ecuador, is an applicant for admission who unlawfully crossed the border in September 2022 and was promptly apprehended by U.S. Customs and Border Protection (“CBP”), released on humanitarian parole, and placed into removal proceedings two months later. While removal proceedings were pending in February 2025, Rueda Torres was arrested and charged with two misdemeanors, including attempted petit larceny. Rueda Torres’s next hearing in immigration court took place on October 9, 2025, after which U.S. Immigration and Customs Enforcement (“ICE”) detained her.

Rueda Torres challenges her detention and seeks an order from this Court granting her petition for a writ of habeas corpus and requiring her immediate release or a bond hearing with certain criteria. Rueda Torres argues that her detention is unlawful because it is not necessary to detain her to “ensure her presence at [her removal] proceedings,” *see* Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (“Pet.”), Dkt. No. 1, ¶ 28; because she did not receive sufficient process prior to her detention by ICE on October 9 and now has no meaningful opportunity to challenge her detention, *id.* ¶¶ 38, 39; and because she was detained pursuant to ICE’s alleged “indiscriminate” courthouse arrest policy, *id.* ¶ 45.

The habeas petition should be denied because Rueda Torres’s detention is mandatory under 8 U.S.C. § 1225(b) or, alternatively, 8 U.S.C. § 1226(c)(1)(E). Further, Rueda Torres’s claim alleging that ICE’s courthouse arrest policy is arbitrary and capricious in violation of the Administrative Procedure Act (“APA”) fails, as she has not identified any specific reason why

current ICE policy is arbitrary and capricious, other than her erroneous representation—ignoring her criminal arrest earlier this year—that there has been “no change of circumstances” supporting her detention. Accordingly, her detention is lawful, and the Court should deny the habeas petition in its entirety.

BACKGROUND

I. Rueda Torres’s Immigration History, Removal Proceedings, and Detention by ICE

Rueda Torres, a native and citizen of Ecuador, unlawfully entered the United States and was encountered in Texas by CBP on September 28, 2022. *See* Declaration of Deportation Officer Yi Jiang (“Jiang Decl.”) ¶ 4. CBP exercised its discretion to release Rueda Torres on humanitarian parole until November 30, 2022, pursuant to 8 U.S.C. § 1182(d)(5), directing Rueda Torres to report to an ICE office within 60 days. *Id.*; Gov’t Return Ex. 1.

On October 31, 2022, Rueda Torres reported to the ICE office in Newark, New Jersey, at which time she was served with an arrest warrant and a Notice to Appear (“NTA”), which charged her as removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Jiang Decl. ¶ 5; Gov’t Return Exs. 2, 3. The NTA directed Rueda Torres to appear for a hearing before an immigration judge in Newark on December 29, 2022. Jiang Decl. ¶ 5; Gov’t Return Ex. 3. With service of the NTA, Rueda Torres’s humanitarian parole terminated. Jiang Decl. ¶ 7. Her parole was not subsequently renewed by the U.S. Department of Homeland Security (“DHS”). *Id.*

ICE released Rueda Torres on October 31, 2022, on her own recognizance. *Id.* ¶ 6; Gov’t Return Exs. 4, 5.

On November 21, 2022, ICE filed the NTA with the Executive Office for Immigration Review, thereby commencing removal proceedings against Rueda Torres. Jiang Decl. ¶ 8.

On December 29, 2022, Rueda Torres appeared *pro se* at her first master calendar hearing in Newark. Jiang Decl. ¶ 9. The case was adjourned until July 6, 2023, to give Rueda Torres time to retain an attorney. *Id.* The July 6, 2023, hearing date was subsequently rescheduled to October 19, 2023, due to the immigration judge's unavailability on the originally scheduled date. *Id.*

On August 21, 2023, Rueda Torres filed with the immigration court a defensive application for asylum on behalf of herself and her two minor children, as well as a motion to change venue from Newark, New Jersey, to New York, New York because she had moved to Manhattan. *Id.* ¶ 10. The motion to change venue was granted on August 24, 2023. *Id.* On August 30, 2023, a master calendar hearing was scheduled for April 4, 2024. *Id.*

On April 4, 2024, Rueda Torres appeared *pro se* for a second master calendar hearing in New York City, and at Rueda Torres's request, the case was adjourned to December 5, 2024, to give her additional time to retain counsel. *Id.* ¶ 11.

On December 5, 2024, Rueda Torres appeared *pro se* for a third master calendar hearing in New York City. *Id.* ¶ 12. The case was adjourned until October 9, 2025, when pleadings were scheduled to be taken. *Id.*

On February 21, 2025, Rueda Torres was arrested by the New York Police Department for attempted petit larceny, in violation of New York Penal Law § 155.25, and attempted criminal possession of stolen property, in violation of New York Penal Law § 165.40. *Id.* ¶ 13; Gov't Return Ex. 6. The following day, ICE lodged an immigration detainer with the New York County Criminal Court. Jiang Decl. ¶ 14.

On October 9, 2025, Rueda Torres appeared *pro se* for a fourth a master calendar hearing at 26 Federal Plaza in New York City. *Id.* ¶ 15. The immigration judge adjourned the case until September 23, 2026. *Id.* Immediately after the hearing, ICE revoked Rueda Torres's order of release on recognizance and took Rueda Torres into custody in the premises of the immigration court. *Id.* ICE transported Rueda Torres to the processing space within 26 Federal Plaza and personally served Rueda Torres with an arrest warrant. *Id.*; Gov't Return Ex. 7. Because ICE does not have a detention facility for females in the Southern District of New York, ICE made requests for bedspace outside of this district for Rueda Torres. Jiang Decl. ¶¶ 16, 17.

Rueda Torres remained at 26 Federal Plaza until October 10, 2025, when long-term bedspace was secured for her at South Louisiana ICE Processing Center in Basile, Louisiana. *Id.* ¶ 17. Rueda Torres left 26 Federal Plaza at approximately 10:12 a.m. on October 10 and took a 12:50 p.m. flight from Newark Liberty International Airport in New Jersey to Alexandria International Airport in Louisiana. *Id.* Following a delay, the flight landed in Alexandria at approximately 4:07 p.m., at which time Rueda Torres was transferred to South Louisiana ICE Processing Center, where she remains. *Id.* ICE has no current intention of moving Rueda Torres during the pendency of her habeas proceedings. *Id.*

II. Rueda Torres's Habeas Petition

On October 9, 2025, Rueda Torres, through her next friend, filed a habeas petition under 28 U.S.C. § 2241 in this Court. *See* Dkt. No. 1. Rueda Torres challenges her detention as unlawful and seeks an order from this Court requiring ICE to immediately release her or, in the alternative, provide her with a bond hearing with certain criteria.

The Court ordered the government to show cause by October 17, 2025, why the habeas petition should not be granted pursuant to the Court's decision in *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025). *See* Dkt. No. 6.

ARGUMENT

I. Rueda Torres Is Lawfully Detained Pursuant to Section 1225(b) and She Is Not Entitled to a Bond Hearing

In *Lopez Benitez* and *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025), this Court concluded that two individuals who had been released on their own recognizance at the border by CBP pursuant to section 1226 were subject to discretionary detention pursuant to 8 U.S.C. § 1226(a), not mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). Here, by contrast, CBP did not release Rueda Torres on her own recognizance; instead, by statute she is “deemed . . . an applicant for admission,” and CBP released her on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5) in September 2022. *See* Jiang Decl. ¶ 4; Gov’t Return Ex. 1. That provision provides, in relevant part:

The Secretary of Homeland Security may . . . in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but *such parole of such alien shall not be regarded as an admission of the alien* and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case *shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States*.

8 U.S.C. § 1182(d)(5) (emphases added).

Unlike the petitioners in *Lopez Benitez* and *Samb*, Rueda Torres is an applicant for admission who was expressly released on humanitarian parole under § 1182(d)(5), and then re-detained after such parole expired. She therefore falls expressly within the ambit of section 1225, which mandates that she remain in detention during the pendency of her removal proceedings absent a further discretionary release on parole. *Cf. Lopez Benitez*, 2025 WL 2371588, at *3 (noting that parole under section 1182(d)(5) “permits a noncitizen to physically enter the country, subject to a reservation of rights by the Government that it may continue to treat the noncitizens as if stopped

at the border,” and further, that “[o]ther than this limited exception [for parole] . . . , detention under § 1225(b)(2) is considered mandatory”) (citations and quotation marks omitted). Pursuant to 8 U.S.C. § 1225(b)(2)(A), “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under [8 U.S.C. §] 1229a.”

This reasoning comports with Supreme Court precedent. As explained in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), applicants for admission fall into one of two categories: those covered by section 1225(b)(1) and those covered by section 1225(b)(2). 583 U.S. at 287. Section 1225(b)(1) applies to aliens arriving in the United States who are initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(2)—the provision relevant here—is “broader” and “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here).” *Jennings*, 583 U.S. at 287. And section 1225(b) mandates detention. *Id.* at 297; *see also* 8 U.S.C. § 1225(b)(2). Moreover, the Supreme Court has confirmed that this statutory mandate for detention extends for the entirety of removal proceedings. *See Jennings*, 583 U.S. at 302 (“[Section] 1225(b)(2) . . . mandates[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.”).

Applicants for admission like Rueda Torres are “treated, for constitutional purposes, as if stopped at the border,” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (quotation marks omitted), even if they are paroled into the United States for a limited purpose, *see United States ex rel. Kordic v. Esperdy*, 386 F.2d 232, 235 (2d Cir. 1967) (“A ‘parolee,’ even though physically in the country, is not regarded as having ‘entered’ and thus has not acquired the full protection of the

Constitution.”); *see also Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958); *Ascencio-Rodriguez v. Holder*, 595 F.3d 105, 108 n.3 (2d Cir. 2010) (“It is well established that aliens detained at the border are not entitled to the same protections as those who have been admitted into the United States. . . . Providing aliens at the border with more limited procedural protections than persons ‘admitted’ to the United States is not only rooted in precedent, it is also essential to the effective administration of our immigration laws.”). Because Rueda Torres continues to be an applicant for admission,¹ her detention after re-arrest is pursuant to section 1225(b)(2)(A).²

Further, because Rueda Torres is lawfully detained pursuant to section 1225(b), she is not entitled to a bond hearing, particularly given that she has been detained for just eight days. Because applicants for admission have not been admitted to the United States, their constitutional rights are truncated: “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien

¹ Rueda Torres remains an applicant for admission, notwithstanding her prior release on humanitarian parole. 8 U.S.C. § 1182(d)(5)(A) (“[P]arole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.”); *see also, e.g., United States v. Balde*, 943 F.3d 73, 84 (2d Cir. 2019) (“Parole does not change parolees’ immigration status: they remain ‘at the border’ for the purposes of immigration law and are treated as applicants for admission into the country.”); *see also Barber*, 357 U.S. at 190 (“The parole of aliens seeking admission is simply a device through which needless confinement is avoided while administrative proceedings are conducted. It was never intended to affect an alien’s status, and to hold that petitioner’s parole placed her legally ‘within the United States’ is inconsistent with the congressional mandate, the administrative concept of parole, and the decisions of this Court.”).

² Reading 8 U.S.C. § 1225(b)(2) to mandate detention for any “applicant for admission” is in accordance with the plain meaning of the text. *See Vargas Lopez v. Trump*, No. 25 Civ. 526, 2025 WL 2780351, at *9 (D. Neb. Sept. 30, 2025) (denying habeas petition and holding that petitioner was “an alien within the ‘catchall’ scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a”). This reading does not render section 1226 superfluous; section 1226 continues to apply, for example, to aliens who have been convicted of certain criminal offenses since admission. *See Chavez v. Noem*, No. 25 Civ. 02325, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025) (discussing interplay between Sections 1225(b) and 1226(a) and denying application for temporary restraining order brought by aliens contending that they were entitled to a bond hearing pursuant to Section 1226(a)).

denied entry is concerned.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950)). Here, the procedure authorized by Congress in § 1225(b) and related provisions expressly excludes the possibility of a bond hearing. *Jennings*, 583 U.S. at 297 (“[N]either § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.”). Instead, for an applicant for admission, “if the examining immigration officer determines that [he] is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under [8 U.S.C. §] 1229a.” 8 U.S.C. § 1225(b)(2)(A). That is, Congress has provided that Rueda Torres shall be detained for removal proceedings before an immigration judge, which afford the alien a host of procedural protections.³ *See* 8 U.S.C. § 1229a. The exclusive means of release for an applicant for admission such as Rueda Torres is the Secretary of Homeland Security’s discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A), which already was invoked once here and terminated on October 31, 2022. *See* Gov’t Return Ex. 1; Jiang Decl. ¶ 7.

³ During removal proceedings, aliens may apply for various forms of relief or protection from removal, such as asylum, withholding of removal, and protection under the Convention Against Torture. *See* 8 U.S.C. § 1158(a); 8 U.S.C. § 1231(b)(3). The decision whether to order such an alien removed is made by an immigration judge (not an immigration officer). 8 U.S.C. § 1101(b)(4); 8 U.S.C. § 1229a(a)(1). Aliens may obtain continuances during their proceedings for good cause. 8 C.F.R. § 1003.29. They have a right to counsel of their choice at no expense to the government, 8 U.S.C. § 1229a(b)(4)(A); the right to testify; and the right to “examine the evidence against [them],” “to present evidence,” and “to cross-examine witnesses presented by the Government,” 8 U.S.C. § 1229a(b)(4)(B); *see* 8 C.F.R. §§ 1240.7(a), 1240.46(c). Aliens ordered removed may ask the immigration judge to reconsider that determination. 8 U.S.C. § 1229a(c)(6). They are also informed that they have a right to appeal, 8 U.S.C. § 1229a(c)(5), and they may file an appeal with the Board of Immigration Appeals (“BIA”), 8 C.F.R. §§ 1003.1(b), 1003.38(a). If an alien appeals and the BIA enters a final removal order, the alien may file a petition for review in a court of appeals, 8 U.S.C. § 1252, and thereafter seek review in the Supreme Court, 28 U.S.C. § 1254(1).

II. Rueda Torres's Detention Under Section 1225(b) Comports with Due Process

In Counts One and Two, Rueda Torres argues that her detention violates due process because she is being detained “without cause,” Pet. ¶ 25, and had no “notice or opportunity to be heard” before she was detained or now, *id.* ¶¶ 38, 39. Her due process claims fail because she is subject to mandatory detention under section 1225(b).

First, with respect to her procedural due process rights, the Supreme Court has made clear that “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.” *Mezei*, 345 U.S. at 212 (citing *Knauff*, 338 U.S. at 544); *cf. Guzman v. Tippy*, 130 F.3d 64, 66 (2d Cir. 1997) (the rights of excluded aliens “are determined by the procedures established by Congress and not by the due process protections of the Fifth Amendment”).

In *Mezei*, the Supreme Court held that an alien’s detention at the border without a hearing to effectuate his exclusion from the United States did not violate due process. 345 U.S. at 206. *Mezei* arrived at Ellis Island seeking admission into the United States; although he had resided in the United States previously, he had since been “permanently excluded from the United States on security grounds.” *Id.* at 207. His home country would not accept him, and he had been detained for more than a year and a half to effectuate his exclusion when he filed a habeas petition seeking release into the United States. *Id.* at 207–08. The Supreme Court held that *Mezei*’s detention did not “deprive[] him of any statutory or constitutional right.” *Id.* at 215. The Court recognized that “once passed through our gates, even illegally,” aliens “may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law.” *Id.* at 212. “But an alien on the threshold of initial entry stands on a different footing.” *Id.*

Indeed, as a court in this district correctly recognized in a case (decided after *Jennings*) involving an applicant for admission, “because the immigration statutes at issue here do not authorize a bond hearing, *Mezei* dictates that due process does not require one here.” *Poonjani v.*

Shanahan, 319 F. Supp. 3d 644, 649 (S.D.N.Y. 2018). Another court in this district has held the same. *See Mendez Ramirez v. Decker*, 612 F. Supp. 3d 200, 220–21 (S.D.N.Y. 2020) (following *Mezei*, holding constitutional due process rights for alien deemed at threshold of entry extended no further than the process outlined by statute). Other judges have agreed. *See, e.g., Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 333–36 (W.D.N.Y. 2021) (applying *Mezei* and *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020), and holding that an applicant for admission is not entitled to procedural protections beyond those provided by statute); *D.A.V.V. v. Warden, Irwin Cnty. Det. Ctr.*, No. 20 Civ. 159, 2020 WL 13240240, at *4–6 (M.D. Ga. Dec. 7, 2020) (“Applying this rule in *Thuraissigiam*, which squares with longstanding Supreme Court precedent, this Court similarly holds that arriving aliens’ procedural due process rights entitle them only to the relief provided by the INA.”); *Salim v. Tryon*, No. 13 Civ. 6659, 2014 WL 1664413, at *2 (W.D.N.Y. Apr. 25, 2014) (“The Due Process Clause provides an inadmissible alien no procedural protection beyond the procedure explicitly authorized by Congress, nor any right to be free from detention pending removal proceedings.”).⁴

Moreover, more than a century of Supreme Court precedent confirms that applicants for admission are treated differently under the law for due process purposes from other categories of

⁴ Two courts in this district recently concluded that habeas petitioners detained under section 1225(b) were entitled to bond hearings. While the government disagrees with those decisions, they are nonetheless factually inapposite. One involved an individual detained under 8 U.S.C. § 1225(b)(1)(B)(ii), who Judge Subramanian construed as “not [having] been definitively ‘denied entry’ in light of a credible fear of persecution and a stay of removal from the Court of Appeals. *See Al-Thuraya v. Warden*, No. 25 Civ. 2582 (AS), 2025 WL 2858422, at *4, *6 (S.D.N.Y. Oct. 9, 2025) (holding that the due process framework of *Black v. Decker*, 103 F.4th 133 (2d Cir. 2024), applied to an individual detained under 8 U.S.C. § 1225(b)(1)(B)(ii)). In the other, Judge Woods did not have occasion to consider that the subsequent service of a “charging document,” i.e., an NTA, constitutes notice of revocation of parole under 8 C.F.R. § 212.5(e)(2)(i). *See Savane v. Francis*, No. 25 Civ. 6666 (GHW), 2025 WL 2774452, at *9–10 (S.D.N.Y. Sept. 28, 2025) (assuming that petitioner was detained under § 1225 and finding that petitioner’s due process rights were violated under the *Mathews* analysis).

detained aliens. *See, e.g., Zadvydas*, 533 U.S. at 693 (“The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law.”). In the relevant provisions of the Immigration and Nationality Act (“INA”), Congress has decided to treat applicants for admission differently by detaining them during ongoing proceedings to effectuate their exclusion from the United States while considering whether to admit them. Unlike admitted aliens later placed in removal proceedings and detained under 8 U.S.C. § 1226, applicants for admission are “request[ing] a privilege,” *Landon v. Plasencia*, 459 U.S. 21, 32 (1982), and therefore “stand[] on a different footing,” *Mezei*, 345 U.S. at 212. Their lack of entitlement to a bond hearing thus flows logically from their lack of admission to the United States in the first instance. Given that the constitutional due process rights of applicants for admission are limited to the process that Congress chooses to provide, Rueda Torres cannot show that she has suffered a procedural due process violation.

Rueda Torres’s detention for the time-limited pendency of her removal proceedings also does not run afoul of her substantive due process rights. “Detention during removal proceedings is a constitutionally valid aspect of the deportation process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)); *see Demore*, 538 U.S. at 523 n.7 (“prior to 1907 there was no provision permitting bail for *any* aliens during the pendency of their deportation proceedings”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”). Indeed, removal proceedings ““would be [in] vain if those accused could not be held in custody pending the inquiry into their true character.”” *Demore*, 538 U.S. at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); *cf. Reno v. Flores*, 507 U.S. 292, 306 (1993) (“Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General.”).

Because Rueda Torres's detention under 8 U.S.C. § 1225(b)(2)(A) for the duration of her removal proceedings is statutorily mandated, subject only to the possibility of release on further discretionary parole by ICE under 8 U.S.C. § 1182(d)(5)(A), *see Jennings*, 583 U.S. at 298–301, she is not entitled to further process, *see Mezei*, 345 U.S. at 212. Rueda Torres's due process claims (Counts One and Two) should therefore be denied.

III. Alternatively, Rueda Torres Is Lawfully Detained Under Section 1226(c)

To the extent the Court declines to hold that section 1225(b) is applicable here, it should instead hold that Rueda Torres is lawfully detained under section 1226(c)(1)(E). Section 1226 “generally governs the process of arresting and detaining [aliens who have already entered the United States] pending their removal.” *Jennings*, 583 U.S. at 288. Congress amended Section 1226 earlier this year via the Laken Riley Act. *See* Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (adding 8 U.S.C. § 1226(c)(1)(E)). The amendment to Section 1226 mandates detention of an alien if two criteria are met. *See* 8 U.S.C. § 1226(c)(1)(E). First, the alien must be inadmissible because they are present in the United States without being admitted or paroled, 8 U.S.C. § 1182(a)(6)(A), obtained documents or admission through misrepresentation or fraud, *id.* § 1182(a)(6)(C), or lacks valid documentation, *id.* § 1182(a)(7). 8 U.S.C. § 1226(c)(1)(E)(i). And second, the alien “is charged with, is arrested for, is convicted of, admits having committed, or admits committed acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.” 8 U.S.C. § 1226(c)(1)(E)(ii). Notably, the Laken Riley Act does not require a conviction to bring an alien within its ambit.

Rueda Torres is subject to mandatory detention because both criteria under section 1226(c)(1)(E) are met. On the first prong, Rueda Torres is inadmissible under 8 U.S.C. § 1182(a)(6) because she is present in the United States without being admitted or paroled. *See*

Jiang Decl. ¶ 4 (noting that Rueda Torres was apprehended by the CBP after entering the United States in Texas); *id.* ¶ 5 (noting that Rueda Torres has been charged with inadmissibility pursuant to 8 U.S.C. § 1182(a)(6)(A)(i)). And on the second prong, Rueda Torres has been “arrested for . . . acts which constitute the essential elements of . . . larceny.” *See* 8 U.S.C. § 1226(c)(1)(E)(ii). In February 2025, Rueda Torres was arrested by the New York Police Department for attempted petit larceny and attempted criminal possession of stolen property. Jiang Decl. ¶ 13; Gov’t Return Ex. 6. Thus, ICE’s detention of Rueda Torres is mandatory under Section 1226(c)(1)(E).⁵

Furthermore, Rueda Torres’s mandatory detention under section 1226(c) comports with due process. The Second Circuit has recognized that such detention is justified by two “legitimate” and “importan[t]” interests: “(1) ensuring the noncitizen’s appearance at proceedings, and (2) protecting the community from noncitizens who have been involved in crimes that Congress has determined differentiate them from others.” *Black*, 103 F.4th at 153. While it is true that the balance of interests can shift towards an alien if “detention is prolonged without any particularized assessment of need,” that is not the case here where Rueda Torres has only been detained for a “relatively short-term” period of eight days. *Id.* at 154. On the other hand, ICE has demonstrated that it has a “particularized need” for detaining Rueda Torres, consistent with the Congressional mandate to detain such individuals under the Laken Riley Act. *Black*, 103 F.4th at 153. Accordingly, Rueda Torres cannot maintain that mandatory detention at this time under section 1226(c) would violate due process.

⁵ Although aliens in mandatory detention are not statutorily entitled to bond hearings, they may receive hearings before an immigration judge where they can contest whether they are properly subject to mandatory detention. 8 C.F.R. § 1003.19(h)(2)(ii); *In re Joseph*, 22 I. & N. Dec. 799, 805 (BIA 1999) (explaining that the “purpose of the regulation . . . is to provide an alien . . . with the opportunity to offer evidence and legal authority on the question whether [DHS] has properly included him within a category that is subject to mandatory detention”).

IV. Rueda Torres's Detention Does Not Violate the Administrative Procedure Act

Rueda Torres additionally asserts that her arrest was arbitrary and capricious, in violation of the APA. Pet. ¶¶ 43–46. But the APA permits judicial review of agency action only when, inter alia, “there is no other adequate remedy in a court.” 5 U.S.C. § 704. Where an alien’s claims for relief “‘necessarily imply the invalidity’ of their confinement,” those claims “must be brought in habeas” and not as APA claims. *See Trump v. J.G.G.*, 604 U.S. 670, 672 (2025); *see also id.* at 674 (Kavanaugh, J., concurring) (“[G]iven 5 U.S.C. § 704, which states that claims under the APA are not available when there is another ‘adequate remedy in a court,’ . . . habeas corpus, not the APA, is the proper vehicle here.”).

In any event, Rueda Torres has not sufficiently shown any APA violation. She makes the conclusory allegations that the government’s “courthouse arrest policy whereby they indiscriminately detain individuals . . . is arbitrary and capricious,” Pet. ¶ 45, and that her “arrest pursuant to this policy involved no individualized determination that justifies [her] detention,” *id.* But Rueda Torres does not explain why current agency policy is arbitrary and capricious, beyond asserting that it differs from prior policy. In fact, the current policy is permissible under the INA, and the agency has provided sufficient reasoning as to why it is preferable to prior policy. *See Civil Immigration Enforcement Actions In or Near Courthouses* (May 27, 2025), <https://www.ice.gov/doclib/foia/policy/11072.4.pdf>; *African Communities Together v. Lyons*, No. 25 Civ. 6366 (PKC), 2025 WL 2633396, at *21 (S.D.N.Y. Sept. 12, 2025). Indeed, Judge Castel recently held in an APA case challenging the policy that “plaintiff . . . failed to show a probability of success that the January and May ICE Courthouse Arrest Policies are arbitrary, capricious or otherwise not in accordance with law.” *African Communities Together*, 2025 WL 2633396, at *22. For these reasons, Rueda Torres’s APA claim also fails.

CONCLUSION

For the foregoing reasons, the petition for a writ of habeas corpus should be denied.

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Certificate of Compliance

Pursuant to Local Civil Rule 7.1(c), the above-named counsel hereby certifies that this memorandum complies with the 8,750-word-count limitation of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, this memorandum contains 5,114 words.