IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MARTIN SEGUNDO RIOS FERREIRA,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondent.

Civil Action No. 1:25-CV-00218-H

RESPONSE IN OPPOSITION TO WRIT OF HABEAS CORPUS AND REQUEST FOR TEMPORARY RESTRAINING ORDER

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I. Introduction

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his recent detention by Immigration and Customs Enforcement (ICE). He alleges that he cannot be subject to mandatory immigration detention but rather must be given an individualized bond hearing in connection with his pending removal proceeding. Petitioner also brings a related claim under the Administrative Procedure Act (APA) to challenge a decision issued by the Board of Immigration Appeals (BIA) addressing whether aliens who enter the United States unlawfully (e.g., without inspection or admission) and are then placed in removal proceedings are entitled to a bond hearing or instead are subject to mandatory detention. Finally, in addition to the habeas petition, Petitioner seeks a temporary restraining order that likewise asserts that he is entitled to an individualized bond determination. As explained herein, though, Petitioner is not entitled to any relief on his petition.

II. Background

The petitioner is a native and citizen of Venezuela. App. p.17. Petitioner applied for admission to enter the United States at the Gateway to the Americas Port of Entry in Laredo, Texas, on March 6. 2019. App. p. 3, ¶ 4. Thereafter, he was served with a Notice to Appear ("NTA") for removal proceedings as an arriving alien, in the United States pursuant to INA § 212(a)(7)(A)(i)(I). App. pp. 21-23.

On March 14, 2025, Petitioner was encountered by The Colony, Texas, Police Department. He was arrested and charged with assault causing bodily injury to a family member pursuant to TPC § 22.01(a)(1), and with interfering with an emergency request

for assistance pursuant to TPC § 42.062. App. p. 3, ¶ 7.On March 22, 2025, he was transferred into ICE custody. *Id.* On May 9, 2025, Petitioner, through counsel, requested a redetermination of custody status before an immigration judge. The hearing was held on May 13, 2025. The immigration judge found that he lacked jurisdiction to consider Petitioner's custody redetermination request because he was an arriving alien subject to mandatory detention. App. p.13.

On July 17, 2025, an immigration judge found Petitioner inadmissible pursuant to INA § 212(a)(7)(A)(i)(I), and his application for asylum, withholding, and deferral of removal applications were withdrawn without prejudice. App. p. 16. The immigration judge granted, alternatively, the Petitioner's request for Temporary Protected Status (TPS) de novo review and terminated proceedings without prejudice. App. p. 17. Petitioner's TPS status (granted by the immigration judge) expired on September 10, 2025. Additionally, Secretary Noem terminated TPS for Venezuelans. A California district court found the termination unlawful but on October 3, 2025, the Supreme Court stayed the district court's decision while the government appeals. *See* Vacatur of 2025 Temporary Protected Status Decision for Venezuela, 90 Fed. Reg. 8807; Termination of the Oct. 3, 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 9043–9044; *Noem v. National TPS Alliance,* 606 U.S. --- (2025).

On August 29, 2025, Petitioner was transferred from ICE custody back into the custody of the Denton County Sheriff's Office on an outstanding warrant related to his March 14, 2025, arrest by The Colony, Texas, Police Department. App. p. 3, ¶ 8. On

September 22, 2025. Petitioner was transferred back into ICE custody, where he has remained since. App. p. 3, ¶ 9.

On October 6, 2025. Petitioner was served with a second NTA for removal proceedings based on his presence in the United States without being admitted or paroled. Petitioner's next hearing on his removal case is November 5, 2025. App. p.25.

Petitioner seeks habeas relief in two counts by which he asserts an entitlement to a bond hearing of the type he could receive if detained under § 1226. ECF 1, ¶¶17–32. And in a third count, Petitioner brings an APA claim by which he challenges the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2015). ECF 1, ¶¶ 32–39. Finally, Petitioner seeks injunctive relief arguing that he is illegally detained without a bond hearing.

III. Argument and Authorities

The Court should deny Petitioner's petition and request for a TRO, for the following reasons:

A. An APA claim is not available.

Petitioner's attempt to proceed under the APA also fails. By the APA's terms, it is available only for final agency action "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Thus, Petitioner's APA claim is independently barred by this limitation in § 704.

In *Trump v. J.G.G.*, the Supreme Court held that where immigration detainees' claims "necessarily imply the invalidity of [] confinement," those claims "must be brought in habeas." 604 U.S. 670, 672 (2025) (internal quotation marks and citation

omitted). As noted by Justice Kavanaugh in a concurrence, "given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another 'adequate remedy in a court,' I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." *Id.* at 674 (Kavanaugh, J. concurring).

Here, as in *J.G.G.*, habeas is an "adequate remedy" through which Petitioner can challenge any future denial of a bond hearing. Thus, even if his APA claim had merit, which it does not, the result would be the same as that in habeas—the government would presumably be required to hold a bond hearing to assess whether detention can continue. For this reason, Petitioner is not entitled to any relief on his APA claim.

B. Petitioner is not entitled to any relief, because he is an applicant for admission who may properly be subjected to mandatory detention under 8 U.S.C. § 1225 without any requirement for a bond hearing.

Petitioner's detention is statutorily authorized by section 1225. 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 section 1229a [removal proceedings]." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has held that section 1225(b)(2)(A) is a mandatory detention statute and that aliens detained pursuant to that provision are not entitled to bond. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)("Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens.").

Petitioner falls squarely within the ambit of section 1225(b)(2)(A)'s mandatory detention requirement as Petitioner is an "applicant for admission" to the United States.

An "applicant for admission" is an alien present in the United States who has not been admitted. 8 U.S.C. § 1225(a)(1). Congress's broad language here is unequivocally intentional—an undocumented alien is to be "deemed for purposes of this chapter an applicant for admission." *Id.* Regardless of Petitioner's characterization, he is "deemed" an applicant for admission based on Petitioner's failure to seek lawful admission to the United States before an immigration officer, which is undisputed. *See generally* ECF 1. And because Petitioner has not demonstrated to an examining immigration officer that he is "clearly and beyond a doubt entitled to be admitted," Petitioner's detention is mandatory. 8 U.S.C. § 1225(b)(2)(A). Thus, Petitioner is properly detained pursuant to section 1225(b)(2)(A), which mandates that Petitioner "shall be" detained.

The Supreme Court has confirmed an alien present in the country but never admitted is deemed "an applicant for admission" and that "detention must continue" "until removal proceedings have concluded" based on the "plain meaning" of 8 U.S.C. § 1225. *Jennings*, 583 U.S. at 289; 299. At issue in *Jennings* was the statutory interpretation. The Supreme Court reversed the Ninth Circuit Court of Appeal's imposition of a six-month detention time limit into the statute. *Id.* at 297. The Court clarified there is no such limitation in the statute and reversed on these grounds, remanding the constitutional Due Process claims for initial consideration before the lower court. *Id.* But under the words of the statute, as explained by the Supreme Court, section 1225 includes aliens like the Petitioner who are present but have not been admitted and they shall be detained pending their removal proceedings.

Specifically, the Supreme Court declared, "an alien who 'arrives in the United

States,' *or* 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Id.* at 287 (emphasis on "or" added). In doing so, the Court explained both aliens captured at the border and those illegally residing within the United States would fall under section 1225. This would include Petitioner as an alien who is present in the country without being admitted.

The BIA's recently issued published decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is consistent with these principles. In its decision, the BIA affirmed "the Immigration Judge's determination that he did not have authority over [a] bond request because aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.* at 220.[1]

The BIA concluded that aliens "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United States for a lengthy period of time following entry without inspection, by itself, does not constitute an 'admission.'" *Id.* at 228. To hold otherwise would lead to an "incongruous result" that rewards aliens who

[1] Previously, § 1226(a) had been interpreted as an available detention authority for aliens who were present without admission and placed in § 1229a removal proceedings. *See, e.g., Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 747–48 (BIA 2023). However, as noted by the BIA, the BIA had not previously addressed this issue in a precedential decision. *See Matter of Yajure Hurtado*, 29 I&N Dec. at 216.

unlawfully enter the United States without inspection and subsequently evade apprehension for a number of years. *Id.*

In so concluding, the BIA rejected the alien's argument that "because he has been residing in the interior of the United States for almost 3 years . . . he cannot be considered as 'seeking admission.'" *Id.* at 221. The BIA determined that this argument "is not supported by the plain language of the INA" and creates a "legal conundrum." *Id.* If the alien "is not admitted to the United States (as he admits) but he is not 'seeking admission' (as he contends), then what is his legal status?" *Id.* (parentheticals in original).

The decision in *Matter of Yajure Hurtado* is consistent not only with the plain language of § 1225(b)(2), but also with the Supreme Court's 2018 decision in *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is "quite clear" and "unequivocally mandate[s]" detention. 583 U.S. at 300, 303.

Similarly, relying on *Jennings* and the plain language of §§ 1225 and 1226(a), the Attorney General recognized in *Matter of M-S-* that §§ 1225 and 1226(a) describe "different classes of aliens." 27 I&N Dec. 509, 516 (AG 2019). And in *Matter of Q. Li*, the BIA also held that an alien who illegally crossed into the United States between ports-of-entry and was apprehended without a warrant while arriving is detained under § 1225(b). 29 I&N Dec. 66, 71 (BIA 2025). These decisions make clear that all applicants for admission are subject to detention under § 1225(b). *See also Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained

discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit").

Given that section 1225 is the applicable detention authority for all applicants for admission—both arriving aliens and aliens present without admission alike, regardless of whether the alien was initially processed for expedited removal proceedings under § 1225(b)(1) or placed directly into removal proceedings under § 1229a—and further given that both "§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings," *Jennings*, 583 U.S. at 302, Petitioner has no grounds to complain that he is subject to mandatory detention and is not entitled to a bond hearing.

Petitioner is properly considered an applicant for admission (specifically, an alien present without admission), and he was placed into removal proceedings under § 1229a. He is therefore subject to detention pursuant to § 1225(b)(2)(A) and there is no requirement that he be eligible for bond.

C. Congress intended to mandate detention for all applicants for admission under § 1225.

Congress provided that mandatory detention pending removal proceedings is the norm—not the exception—for those who enter the country without inspection and who lack documents sufficient for admission or entry. *See* 8 U.S.C. § 1225(b)(2). And for good reason: detention pending removal proceedings is the historical norm and, in this context, reflects the reality that aliens have avoided inspection by sneaking into the United States. *See Demore v. Kim*, 538 U.S. 510, 523 (2003) (citing *Wong Wing v. United States*, 163

U.S. 228, 235 (1896)). When Congress enacted 8 U.S.C. § 1225(b) as part of the immigration reforms of 1996. it determined that treating all unadmitted aliens similarly in terms of detention and removal eliminated unintended consequences and perverse incentives that pervaded the prior system. under which undocumented aliens who entered without inspection received more procedural protections—including the ability to seek release on bond—than those who presented themselves for inspection at ports of entry. In essence, the pre-1996 law favored those that entered the U.S. illegally and clandestinely. which Congress sought to end. Through mandatory detention of applicants for admission. Congress further ensured that the Executive Branch can give effect to the provisions for removal of aliens. *See Demore*, 538 U.S. at 531.

The legislative history is instructive. As explained by the BIA in *Yajure Hurtado*. before the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IRRIRA"), the INA provided for inspection of only immigrants arriving at a port of entry. *Id.* at 222. Aliens in the United States were put into removal proceedings but were bond eligible. *Id.* at 223.

> Congress acted, in part, to remedy the "unintended and undesirable consequence" of having created a statutory scheme where aliens who entered without inspection "could take advantage of the greater procedural and substantive rights afforded in deportation proceedings," including the right to request release on bond, while aliens who had "actually presented themselves to authorities for inspection were restrained by 'more summary exclusion proceedings,'" and were subject to mandatory custody. (Citing *Martinez v. Att'y Gen. of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012). . . Thus, after the 1996 enactment of the IIRIRA, aliens who enter the United States without inspection or admission are "applicants for admission" under section 235(a)(1) of the INA, 8 U.S.C. § 1225(a)(1), and subject to the inspection, detention, and removal procedures of section 235(b) of the INA.

Id. at 223.

This history supports the result required by the plain language of the statute itself. Indeed, other district courts, including courts from within this circuit, have recognized that mandatory detention of inadmissible aliens for the duration of their removal proceedings is required by 1225(b)(2). *Oliveira v. Patterson et al.*, 25-cv-1463, 2025 WL 3095972 (W.D. La. Nov 4, 2025) (denying habeas relief to inadmissible alien present in the country without admission or parole for 9 years because the alien is an "applicant for admission" subject to mandatory detention under §1225(b)(2)); *Barrios Sandoval v. Acuna*, et al, No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (denying habeas relief to inadmissible alien present in the country for 3 years without admission or parole because the alien is an "applicant for admission" subject to mandatory detention under §1225(b)(2); *Garibay-Robledo v. Noem*, 25-cv-177, 2025 WL 2638672 (N.D. Tex. Oct. 24, 2025) (denying TRO to inadmissible alien present in the country for over 30 years without admission for 9 years because the alien is an "applicant for admission" subject to mandatory detention under §1225(b)(2)); *Lopez v. Trump*, 25-cv-00526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (denying habeas relief to inadmissible alien in the country for 12 years based on 1225(b)(2) and inapplicability of 1226); *Chavez v. Noem*, No. 25-cv-2325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025)(denying injunctive relief to inadmissible alien based on 1225(b)(2)); *Pena v. Hyde*, 25-cv-11983, 2025 WL 2108913 (D. Mass. July 28, 2025)(denying habeas relief for inadmissible alien in the country for 20 years based on 1225(b)); *Kum v. Ross*, 25-cv-451, [ECF 14], report and recommendation to deny and dismiss habeas petition (W.D. La. Oct. 22, 2025), adopted (W.D. La. Nov. 06. 2025).

Petitioner argues that the plain language of § 1225(b)(2) does not matter, because the government has in the past treated certain aliens who enter without inspection but who are arrested in the interior as subject to discretionary detention under § 1226(a). But this prior practice has no bearing on the legal issues here, as detention is mandated by the plain language of the statute, and Congress's mandate is supported by eminently reasonable grounds. After all, where (as here) "the words of a statute are unambiguous, this first step of the interpretive inquiry [*i.e.*, construing the statutory text] is [the court's] last." *Rotkiske v. Klemm*, 589 U.S. 8, 13 (2019) (citation omitted).

Respondents are aware of prior rulings in this circuit, and other circuits, rejecting this argument in similar cases, but Respondents respectfully maintain that this Petitioner is nonetheless an applicant for admission subject to mandatory detention under § 1225(b)(2) in light of the legislative history and the reasoning outlined by the Supreme Court in *Jennings*. The contrary decisions of other districts cited by Petitioner should not be followed and should not override the clear congressional mandate of detention under the provisions of 8 U.S.C. §1225(b). According, the Court should not order a bond hearing or release under the reasoning of those decisions.

Recent decisions of some district courts in this circuit are instructive and support the Respondents application of § 1225(b)(2) mandatory detention to this Petitioner. In its very detailed analysis, the court in *Barrios Sandoval v. Acuna*, et al No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025), held that a petitioner allegedly present in the country for over nine years, but without admission or parole, was lawfully detained under

§ 1225(b)(2) and therefore not entitled to a bond hearing.[2] This holding was mirrored in *Oliveria v. Patterson, et al.* No. 25-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) involving a petitioner allegedly present in the country for over 3 years, but without admission or parole. The court in *Barrios Sandoval* and *Oliveria* engaged in a multi-part statutory analysis of 8 U.S.C. §§ 1225 and 1226 including: (1) who qualifies as an "applicant for admission" under § 1225(a), (2) whether detention is required for all "applicants for admission" under §1225(b), (3) what class of aliens (not "applicants for admission") §1226 applies to, and (4) why the proper application of 1225(b) mandatory detention does not render § 1226 superfluous. *Id.* The court noted the distinction between §1225(b)(1) and (b)(2), where (b)(1) sets forth expedited removal procedures and (b)(2) is for "standard" removal proceedings under § 1229a. *Id.* Importantly though, the court found that *both* sections require mandatory detention until the conclusion of the inspection process – whether by expedited removal or the conclusion of the § 1229a removal proceedings. *Id.* The court gave an example of how § 1226 can be properly applied, as the Supreme Court did in *Jennings v. Rodriguez,* 538 U.S. 281 (2018). Finally, the court explained how its analysis differed from that of other district court decisions that have rejected Respondents' argument that § 1225(b) mandatory detention applies to petitioners, where that petitioner is present without admission, regardless of the time that alien has resided unlawfully in the United States.

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[2] Although argued in the briefing, the court did not consider jurisdiction stating, "[b]ecause the Court determines that the Petitioner is not entitled to habeas relief under the facts presented, the Court declines to determine the applicability of the jurisdiction-stripping provisions of the INA cited by the Respondents." *Barrios Sandoval*, 2025 WL 3048926 at *2; *Oliveira*, 2025 WL 3095972.

Similarly, the district court in *Kum v. Ross, et al*, No. 25-cv-451, ECF 15, (W.D. La. Nov. 6, 2025)(adopting report and recommendation, ECF 14, Oct. 22, 2025), correctly applied the definition of "applicant for admission" to a petitioner who was present in the United States without having been admitted or paroled under § 1225(a)(1). The court noted, as Respondents aver in this case, that an applicant for admission is subject to mandatory detention pending full removal proceedings under § 1225(b)(2)(A), also citing *Jennings*, 583 U.S. at 299, and 8 C.F.R. § 235.3(b)(3) (a noncitizen placed into Section 1229a removal proceedings in lieu of expedited removal proceedings under Section 1225(b)(1) "shall be detained" pursuant to 8 U.S.C. § 1225(b)(2)). The court further noted that an applicant for admission under § 1225(b) has no statutory entitlement to a bond hearing, citing both *Thuraissigiam*, 591 U.S. at 111, and *Jennings*, 583 U.S. at 302. Accordingly, the court denied and dismissed the habeas petition in that matter.

Further, this Court recently denied an injunction and request for a bond hearing under § 1226, noting the very real distinction between an "arriving alien" and an "applicant for admission" with respect to the application of § 1225(b) and its mandatory detention requirement. *See Garibay-Robledo*, 2025 WL 2638672. The *Robledo* opinion states:

> To be sure, an arriving alien is an applicant for admission: Subsection 1225(a)(1) defines applicant for admission, in part, as "[a]n alien . . . who arrives in the United States." But the same provision *also* defines an applicant for admission as "[a]n alien present in the United States who has not been admitted." *Id.* This is not the most intuitive definition of the term, but it is the one that Congress enacted into law.

Id. at *4. (emphasis added). This Court conducted a review of legislative history and further noted that by defining "applicants for admission" broadly enough to encompass both

arriving aliens and illegal entrants. Congress removed the previously existing incentives to enter the country illegally. *Id.* at *6-7.

Accordingly, this Court should follow the reasoning of the *Oliveira*, *Barrios Sandoval*, and *Garibay-Robledo* decisions and *Kum* report and recommendation. The Court should find that Petitioner is properly detained under § 1225(b)(2) and subject to mandatory detention as an applicant for admission during the pendency of his removal proceedings under § 1229a.

D. The Due Process Clause does not entitle Petitioner to any relief.

As discussed above, the relevant immigration statutes, properly construed, provide no entitlement to relief for Petitioner. Nor does the Due Process Clause. Instead, mandatory detention under § 1225(b)(2) is constitutionally permissible—particularly where, as here, Petitioner has been detained for a very short period of time. Specifically, his next immigration hearing is on December 3, 2025. Resolution one way or another is undoubtedly forthcoming. Petitioner's ample available process in his current removal proceedings demonstrate no lack of Procedural Due Process—nor any deprivation of liberty "sufficiently outrageous" required to establish a Substantive Due Process claim. *See generally Reed v. Goertz*, 598 U.S. 230, 236 (2023); *Young v. City of St. Charles, Mo.*, 244 F.3d 623, 628 (8th Cir. 2001), *as corrected* (Mar. 27, 2001), *as corrected* (May 1, 2001). Congress simply made the decision to detain him pending removal which is a "constitutionally permissible part of that process." *See Demore v. Kim*, 538 U.S. 510, 531 (2003).

The Supreme Court has held that detention during removal proceedings, even without access to a bond hearing, is constitutional. In *Demore v. Kim*, the Supreme Court upheld the constitutionality of § 1226(c), which mandates the detention of certain aliens during removal proceedings without access to bond hearings. 538 U.S. 510, 522 (2003). The Court "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," and also reaffirmed its "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 523, 526. The Court further explained that "when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal." *Id.* at 528. With respect to due process concerns, the Court recognized that it "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Id.* at 522.

Here, Petitioner is being detained for the limited purpose of removal proceedings and determining his removability. Such detention is not punitive or done for other reasons than to address removability, which will occur in the removal proceedings. Whether framed as a substantive or procedural due process claim, the principles set forth in *Demore* govern this case. Substantive due process protects "only 'those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.'" *Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997)). Any substantive due process claim therefore fails here because "the through line of history" is that the federal government has

"sovereign authority to set the terms governing the admission and exclusion of noncitizens." *Id.* at 911, 912. Indeed, Congress in exercising this "broad power over naturalization and immigration . . . regularly makes rules that would be unacceptable if applied to citizens." *Demore*, 538 U.S. at 522 (internal quotation marks and citation omitted). Consistent with these principles, the Supreme Court has long recognized that "the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526.

Similarly, Petitioner cannot succeed on a procedural due process claim. Such a claim fails because where Congress has substantively mandated detention pending removal proceedings, an alien cannot displace that substantive choice with a procedural due process claim. As discussed, aliens are not entitled to bond hearings as a matter of substantive due process. *See Demore*, 538 U.S. at 523–29. Under *Demore*, Congress may reasonably determine—as it did here—to subject aliens who were never inspected or admitted to this country to detention without bond while the government determines their removability. And "an alien in [that] position has only those rights regarding admission that Congress has provided by statute." *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Congress has not created any procedural rights to a bond hearing for applicants for admission. *See Jennings*, 583 U.S. at 297. "Read most naturally," § 1225 "mandate[s] detention of applicants for admission until certain proceedings have concluded." *Id.* And the statute says nothing "whatsoever about bond hearings." *Id.* No procedural due process claim is stated.

E. The Court should decline to issue any temporary relief.

As discussed above, Petitioner's claims all fail on the merits, and therefore there is no basis for granting temporary relief because no likelihood of success on the merits can be shown. *See Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974). Moreover, Respondent has effectively responded to the full merits of the petition through this response, consideration of the other traditional factors for temporary or preliminary relief is unnecessary—Petitioner has no likelihood of success (or actual success) on the merits, so that can be the end of the analysis.

IV. Conclusion

The petition for writ of habeas corpus, and the accompanying request for temporary restraining order, should each be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On November 10, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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