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

FEDERICO DIAZ GARCIA,

Petitioner.

v.

KRISTI NOEM, et al.,

Respondents.

Civil Action No. 1:25-CV-00247-H

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

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Table of Contents

Table of Authorities

Cases

Statutes

Other Authorities

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. As explained herein, though, Petitioner is not entitled to any relief on his petition.

I. Background

The petitioner is a native and citizen of Mexico. App. p.5. Petitioner entered the United States at an unknown place, on an unknown date. without admission or parole after inspection. *Id.* On October 22, 2025, Petitioner was encountered during a traffic stop. App. p. 3. ERO Officers determined Petitioner was a Mexican National who was present in the United States with no legal entry. *Id.* Petitioner was placed in removal proceedings with a Notice to Appear (NTA). App. p. 5. The NTA charged Petitioner with removability as an alien present in the United States without being admitted or paroled. *Id.* Petitioner's next mast hearing in his removal case is set for December 2, 2025. App. p. 13.

II. Argument and Authorities

A. 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 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. Similar to this case, 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. *Id.* at 287.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. 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 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.

B. 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); *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, et al*, No. 25-cv-451, 2025 WL 3113644 (W.D.La. Nov. 6, 2025)(adopting report and recommendation, 2025 WL 3113646, Oct. 22, 2025).

More recently, this Court denied an injunction and request for a bond hearing under § 1226, noting the statutory definitions of "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 reasoned in *Robledo* that "the plain language of the mandatory-detention provision weighs *heavily against* the petitioner's assertion that he is subject only to discretionary detention," and that the argument to the contrary "*flatly contradicts* the statute's plain language and the history of legislative changes enacted by Congress." *Id.* at *4. 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.

Respondents are aware of prior rulings across the country rejecting the Respondents' argument in similar cases[1], but respectfully maintain that this Petitioner is

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[1] *But see Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at * 3(S.D. Tex. Oct. 7, 2025); *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).

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.

C. 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. 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. 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.

D. Even if this Court were to find that Petitioner warrants additional process, the *Mathews* factors weigh in favor of continued detention.

Even if section 1225(b) did not squarely govern Petitioner's claim, as it does, he would not be entitled to the immediate release that he seeks. Courts across the country have applied different approaches to determine the constitutionality of continued detention under various immigration statutes. *See, e.g., Rimtobaye v. Castro*, No. SA-23-CV-1529-FB (HJB), 2024 WL 5375786, at *2–3 (W.D. Tex. Oct. 29, 2024), *report and recommendation adopted*, No. SA-23-CV-1529-FB, 2025 WL 377722 (W.D. Tex. Jan. 31, 2025) (collecting cases and comparing approaches). Some courts, but not all, utilize the three-factor balancing test Petitioner urges here, which is set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), a case involving the termination of a citizen's social security benefits. *Id.* The Supreme Court, however, "when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*." *Rodriguez Diaz*, 53 F.4th at 1206–07; *see also Demore*, 538 U.S. at 523, 526–

29, 123 S.Ct. 1708; *see also Dusenbery v. United States*, 534 U.S. 161, 168, 122 S.Ct. 694, 151 L.Ed.2d 597 (2002) ("[W]e have never viewed *Mathews* as announcing an all-embracing test for deciding due process claims.").

Other circuits have applied the *Matthews* test to due-process challenges brought to challenge civil detention. The Fifth Circuit, however, has not applied *Matthews* to due-process challenges to section 1225. Petitioner makes no argument as to why this Court should apply the *Matthews* test and offers no reason his procedural due-process claim should not be subject to the same standard as other due process challenges to section 1225 in this Circuit. *Andrade v. Gonzales,* 459 F.3d 538, 543 (5th Cir. 2006). But even if the Court were to find that *Matthews* applies, the conclusion would nevertheless be the same—Petitioner's detention is constitutional even under *Matthews.*

Mathews outlines a three-part "flexible" test to determine whether due process complies with the Constitution. *Mathews*, 424 U.S. at 321. Under *Mathews*, courts consider: (1) the individual's interest: (2) the risk of erroneous deprivation of the right absent further procedures: and (3) the government's interest. *Id.* at 334. Any analysis of these factors in the immigration context must "weigh heavily" the fact that "control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). A correct application of the *Mathews* test weighs against ordering the immediate release Petitioner requests.

Clearly Petitioner has a liberty interest in freedom from lengthy imprisonment. However, Petitioner's liberty interest is diminished because he is illegally in this country

with no permission to remain. *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022). The Supreme Court has emphasized that "detention during deportation proceedings [remains] a *constitutionally valid* aspect of the deportation process." *Demore v. Kim*, 538 U.S. at 523 (emphasis added). Any assessment of the private interest at stake therefore must account for the fact that the Supreme Court has never held that aliens have a constitutional right to be released from custody during the pendency of removal proceedings and, in fact, has held precisely the opposite. *See id.* at 530; *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure.").

Regarding the second *Mathews* factor, applicable statutes and regulations already provide extensive protections to all aliens detained pursuant to § 1225, including appeals to the BIA and the Circuit Court. There is no basis in law for imposing yet more procedures that neither Congress nor the relevant agencies have adopted.

Finally, as to the third factor and final *Mathews* factor, the government's interests in maintaining the existing procedures are legitimate and significant. As a general matter, the Supreme Court has stressed that the government "need[s] . . . flexibility in policy choices rather than the rigidity often characteristic of constitutional adjudication" when it comes to immigration regulation. *Mathews v. Diaz*, 426 U.S. 67, 81 (1976). Accepting Petitioner's position would flout this directive by injecting that very rigidity into the discretionary detention regime Congress adopted.

In determining what process is due in immigration proceedings, "it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative.

largely within the control of the executive and the legislature." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). "[A]ny policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government." *Mathews*, 426 U.S. at 81 n.17 (quoting *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952)). "Congress has repeatedly shown that it considers immigration enforcement—even against otherwise non-criminal [noncitizen]s—to be a vital public interest." *Miranda v. Garland*, 34 F.4th 338, 364 (4th Cir. 2022). It is thus clear that, in the case of aliens seeking admission, "the government interest includes detention." *Id.* And the Supreme Court has stated removal proceedings "would be vain if those accused could not be held in custody pending the inquiry into their true character." *Wong Wing v. United States*, 163 U.S. 228, 235 (1896). Further, "[t]he continued presence of an alien lawfully . . . undermines the streamlined removal proceedings [Congress] established, and permit[s] and prolong[s] a continuing violation of United States law." *Nken v. Holder*, 556 U.S. 418, 436 (2009); *see Landon*, 459 U.S. at 34 ("The government's interest in efficient administration of the immigration laws . . . is weighty."). Moreover, Petitioner has never been in ICE custody, ICE has not had an opportunity to determine whether Petitioner is dangerous or made a determination as to whether he is a flight risk.

Therefore, all three *Mathews* factors favor the Respondent, and this Court should accordingly dismiss the Petition.

III. Conclusion

The petition for writ of habeas corpus should be denied as Petitioner is properly

being detained.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On December 3, 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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