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14 **UNITED STATES DISTRICT COURT**
 15 **SOUTHERN DISTRICT OF CALIFORNIA**
 16

17
 18 Majid MOHAMMAD BEIGI,
 19
 Petitioner,

20 v.

21 Christopher J. LAROSE, Senior Warden,
 22 Otay Mesa Detention Center, in his
 23 official capacity, *et al.*,

24 Respondents.

Case No. 3:25-cv-3193-DMS-MMP

**RESPONDENTS' RETURN IN
 OPPOSITION TO PETITION FOR
 WRIT OF HABEAS CORPUS**

Courtroom 13A
 JUDGE: Dana M. Sabraw

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1 INTRODUCTION

2 The plain language of the Immigration and Nationality Act (“INA”) mandates that
3 Majid Mohammad Beigi (“Mr. Mohammad Beigi” or “Petitioner”)—who is present in the
4 United States without admission—is correctly considered an “applicant for admission” and
5 therefore subject to detention under 8 U.S.C. § 1225(b)(2). *Jennings v. Rodriguez*, 583 U.S.
6 281, 297 (2018) (“Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention
7 of applicants of admission until certain proceedings have concluded.”). The best reading
8 of the statute is that Congress ensured all aliens would be inspected by immigration
9 authorities by treating those present in the United States without inspection and admission
10 as applicants for admission. Aliens who are present without having been inspected and
11 admitted have the benefit of full removal proceedings and are not generally subject to
12 expedited removal. But they are subject to mandatory detention during their removal
13 proceedings. As such, the Court must either dismiss or deny the habeas petition in this case.

14 Mr. Mohammad Beigi’s habeas petition rests on the erroneous premise that he is not
15 an “applicant for admission” and was initially detained under a different provision, 8
16 U.S.C. § 1226(a). To that end, Petitioner presents three counts: (1) lawfulness of his
17 detention was governed by § 1226(a) and not § 1225(b); (2) re-detention without a pre-
18 detention bond hearing violated his due process under the Fifth Amendment; and (3)
19 unlawful agency action under the Administrative Procedure Act (“APA”) in asserting
20 mandatory detention authority over him. ECF. No. 1, ¶¶ 97-112. All three claims fail for
21 the reasons stated below.

BACKGROUND

I. Legal Background

A. Applicants for Admission

“The phrase ‘applicant for admission’ is a term of art denoting a particular legal status.” *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Section 1225(a)(1) states:

(1) Aliens treated as applicants for admission.—An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .) shall be deemed for the purposes of this Act an applicant for admission.

8 U.S.C. § 1225(a)(1).¹ Section 1225(a)(1) was added to the INA as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”). Pub. L. No. 104-208, § 302, 110 Stat. 3009-546. There is a “distinction between an alien who has effected an entry into the United States and one who has never entered [that] runs throughout immigration law.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Before IIRIRA, “immigration law provided for two types of removal proceedings: deportation hearings and exclusion hearings.” *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). A deportation hearing was a proceeding against an alien already physically present in the United States, whereas exclusion hearings applied to aliens outside the United States seeking admission. *Id.* (quoting *Landon v. Plasencia*, 459 U.S. 21, 25 (1982)). Whether an applicant was eligible for “admission” was determined only in

¹ Admission is the “lawful entry of an alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13).

1 exclusion proceedings, and exclusion proceedings were limited to “entering” aliens—those
2 “coming . . . into the United States, from a foreign port or place or from an outlying
3 possession.” *Plasencia*, 459 U.S. at 24 n.3 (quoting 8 U.S.C. § 1101(a)(13) (1982)). A non-
4 citizen “who had entered without inspection could take advantage of greater procedural
5 and substantive rights afforded in deportation proceedings, while non-citizens who
6 presented themselves at a port of entry for inspection were subjected to more summary
7 exclusion proceedings.” *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010); *see also*
8 *Plasencia*, 459 U.S. at 25-26. Prior to IIRIRA, aliens who attempted to lawfully enter the
9 United States were in a worse position than aliens who crossed the border unlawfully. *See*
10 *Hing Sum*, 602 F.3d at 1100. IIRIRA “replaced deportation and exclusion proceedings with
11 a general removal proceeding.” *Id.*, 602 F.3d at 1100.

12 IIRIRA added Section 1225(a)(1) to “ensure[] that all immigrants who have not been
13 lawfully admitted, regardless of their physical presence in the country, are placed on equal
14 footing in removal proceedings under the INA.” *Torres*, 976 F.3d at 928. The provision
15 “places some physically-but not-lawfully present noncitizens into a fictive legal status for
16 purposes of removal proceedings.” *Id.*, 976 F.3d at 928.

17 **B. Detention Under the INA**

18 The INA authorizes civil detention of aliens during removal proceedings and
19 “[d]etention is necessarily part of the deportation procedure.” *Carlson v. Landon*, 342 U.S.
20 524, 538 (1952); *see also* 8 U.S.C. § 1225(b), 1226(a), and 1231(a). “Where an alien falls
21 within this statutory scheme can affect whether his detention is mandatory or discretionary,
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1 as well as the kind of review process available to him if he wishes to contest the necessity
2 of his detention.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).

3
4 **i. Detention Under Section 1225**

5 The INA *mandates* the detention of applicants for admission. 8 U.S.C. § 1225(b)(1)
6 and (b)(2); *see also Jennings*, 583 U.S. at 287 (Applicants for admission “fall into one of
7 two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”). As
8 previously explained, arriving aliens and aliens present less than two years are subject to
9 expedited removal. 8 U.S.C. § 1225(b)(1). If an alien “indicates an intention to apply for
10 asylum,” the alien proceeds through the credible fear process and is subject to mandatory
11 detention. 8 U.S.C. § 1225(b)(1)(B)(ii); *see also* 8 U.S.C. § 1225(B)(1)(B)(iii)(IV).

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14 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583
15 U.S. at 287. The Supreme Court recognized that 1225(b)(2) “applies to all applicants for
16 admission not covered by § 1225(b)(1).” *Id*; *see Avilez v. Garland*, 69 F.4th 525, 529 fn.7
17 (9th Cir. 2023) (recognizing § 1225(b) applied to “noncitizens who arrive or are present in
18 the United States but who ‘ha[ve] not been admitted.’”) (citations omitted). Under
19 § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal
20 proceeding “if the examining immigration officer determines that [the] alien seeking
21 admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C.
22 § 1225(b)(2)(A). While section 1225 does not provide for aliens to be released on bond,
23 the DHS has sole discretionary authority to release any applicant for admission on a “case-
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1 by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C.
2 § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

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4 Notably, for aliens subject to section 1225(b)(2), “[t]he government has discretion
5 to place noncitizens in standard removal proceedings even if the expedited removal statute
6 could be applied to them.” *Flores v. Barr*, 934 F.3d 910, 916-17 (9th Cir. 2019) (citing
7 *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 524 (BIA 2011)). In that event, an alien
8 suffers no prejudice since he “was effectively treated as though [h]e passed the credible
9 fear interview—no better outcome could have resulted from having a credible fear
10 interview.” *de Ramirez v. Rosen*, 842 F. App’x 83, 85 (9th Cir. 2021) (no prejudice even if
11 denial of a credible fear interview “had been an error”).
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14 **ii. Detention Under Section 1226**

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16 Section 1226 provides that “an alien may be arrested and detained pending a decision
17 on whether the alien is to be removed.” 8 U.S.C. § 1226(a). Under § 1226(a), the
18 government may detain an alien during his removal proceedings, release him on bond, or
19 release him on conditional parole.² By regulation, immigration officers can release an alien
20 if the alien demonstrates that he “would not pose a danger to property or persons” and “is
21 likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also
22 request custody redetermination (i.e., a bond hearing) by an IJ at any time before a final
23 order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(d)(1).
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27 ² Being “conditionally paroled under the authority of § 1226(a)” is distinct from being
28 “paroled into the United States under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes*
v. Gonzales, 501 F.3d 1111, 1116 (9th Cir. 2007).

1 *Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotation omitted). “[T]he scope
2 of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
3 day . . .” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title
4 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions.
5 A district court may grant a writ of habeas corpus where a petitioner “is in custody in
6 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c);
7 *Magana-Pizano v. I.N.S.*, 200 F.3d 603, 609 (9th Cir. 1999). In federal habeas proceedings,
8 the petitioner bears the burden of proving his case by a preponderance of the evidence.
9 *Lambert v. Blodgett*, 393 F.3d 943, 970 n.16 (9th Cir. 2004).

13 Habeas Corpus Rule 2(c), which the Court should apply in this 28 U.S.C. § 2241
14 action, “provides that the petition must ‘specify all the grounds for relief available to the
15 petitioner’ and ‘state the facts supporting each ground.’” *Mayle v. Felix*, 545 U.S. 644, 655
16 (2005)); *see also James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994) (“Conclusory allegations
17 which are not supported by a statement of specific facts do not warrant habeas relief.”).
18 Where it “plainly appears from the face of the petition and any attached exhibits that the
19 petitioner is not entitled to relief in the district court, the judge must dismiss the petition.”
20 *Trollope v. Vaughn*, No. CV1803902JLSJDE, 2018 WL 3913922, at *2 (C.D. Cal. 2019)
21 (citing Habeas Rules 1, 4). Similarly, “if the record refutes the applicant’s factual
22 allegations or otherwise precludes habeas relief, a district court is not required to hold an
23 evidentiary hearing.” *See Schriro v. Landrigan*, 550 U.S. 465, 474 (2007).
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ARGUMENT

I. Petitioner’s Habeas Petition Should be Dismissed Because His Detention Under 1225(b) is Both Lawful and Mandatory.

“The power to admit or exclude aliens is a sovereign prerogative.” *Thuraissigiam*, 591 U.S. at 139 (alteration omitted) (quoting *Landon*, 459 U.S. at 32). And “the Constitution gives ‘the political department of government’ *plenary authority* to decide which aliens to admit[.]” *Id.* (emphasis added) (quoting *Nishimura Ekiu v. United States*, 142 U.S. 651, 659 (1892)). Critically, “a concomitant of that power is the power to set the procedures to be followed in determining whether an alien should be admitted[.]” *Id.* As previously noted, “[d]etention is necessarily part of the deportation procedure.” *Carlson*, 342 U.S. at 538.

Mr. Mohammad Beigi contends that his current detention under 8 U.S.C. § 1225(b) is unlawful because he is not an “applicant for admission” and, consequently, cannot be subject to § 1225(b). *See* ECF No. 1, ¶¶ 2, 31, 49, 67. In support of his assertion, Petitioner cites *Torres* for the proposition that “there is a temporal limitation to a classification of applicant for admission,” meaning that once the application for admission is submitted, aliens are no longer applicants for admission. ECF No. 1, ¶¶ 65-66; *Torres*, 976 F.3d at 923; *see also United States v. Gambino-Ruiz*, 91 F.4th 981, 989 (9th Cir. 2024) (Stating “*Torres* merely rejected the view that an alien remains in a perpetual state of applying for admission.”). However, a look at the context of *Torres* and *Gambino-Ruiz* demonstrates that the Ninth Circuit limited its holding to the question of determining inadmissibility under 8 U.S.C. § 1182(a)(7). Specifically, *Gambino-Ruiz* clarified that *Torres* only

1 identified an incongruity in allowing the moment of application to extend indefinitely for
2 any alien present in the United States so that they could be charged inadmissible as lacking
3 valid entry documents at the time of application for admission several years after their
4 initial entry (required in the text of § 1187(a)(7)). *See* 91 F.4th at 989.

6 Nevertheless, *Gambino-Ruiz* held that, while “an immigrant submits an ‘application
7 for admission’ at a distinct point in time[,]” aliens entering unlawfully may still be treated
8 as an applicant for admission for purposes of determining inadmissibility under §
9 1187(a)(7). *See id.* at 989 (noting, “Unlike Torres, however, Gambino-Ruiz was not in
10 danger of the Attorney General treating him as a perpetual applicant for admission because
11 the INA limits the Attorney General’s authority to a two-year period after the alien enters
12 the United States.” (citing 8 U.S.C. § 1225(b)(1)(A)(iii))). In fact, the Ninth Circuit
13 admonished that “overread[ing] the significance of . . . *Torres* [] ‘would create a perverse
14 incentive to enter at an unlawful rather than a lawful location.’” *Id.* at 990 (quoting
15 *Thuraisiggiam*, 591 U.S. at 140). Petitioner’s argument runs afoul of the very incentive the
16 Supreme Court and Ninth Circuit admonished against by asserting that he is not an
17 applicant for admission since, having entered the United States unlawfully, he was already
18 present when he was encountered by immigration officers and, therefore, entitled to greater
19 protections than those who apply for admission at a port of entry.

25 Mr. Mohammad Beigi’s legal status is clear from decades of jurisprudence and the
26 plain text of the INA. He is an Iranian citizen and national and, therefore, an alien. ECF
27 No. 1, ¶ 7; 8 U.S.C. § 1101(a)(3). He entered the United States unlawfully and, thus,
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1 avoided inspection required for admission into the United States. *See* ECF No. 1, ¶¶ 13-
2 14; Ex. 1, at 5 (“On September 22, 2022, [Petitioner] entered the United States near San
3 Luis, AZ without being admitted or paroled by an immigration officer. On that same date,
4 the United States Border Patrol [] arrested [Petitioner] near San Luis, AZ.”). He was
5 subsequently charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) the next day and
6 placed into section 1229a removal proceedings. *Id.* Consequently, Petitioner possesses all
7 the hallmarks of an applicant for admission subject to detention under 8 U.S.C.
8 § 1225(b)(2)(A). *See* 8 U.S.C. § 1225(a)(1) (“[a]n alien present in the United States who
9 has not been admitted . . . (whether or not at a designated point of arrival.”); *Thuraissigiam*,
10 591 U.S. at 140 (An alien “who tries to enter the country illegally is treated as an applicant
11 for admission.”) (quotation omitted). (“[A]nd an alien who is detained shortly after
12 unlawful entry cannot be said to have ‘effected an entry,’” and is in the same position as
13 an alien seeking admission at a port of entry) (quoting *Zadvydas*, 533 U.S. at 693).

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19 Moreover, to the extent Petitioner relies on the incorrect claim that his detention is
20 governed by 8 U.S.C. § 1226(a), such reliance is unavailing here. *See* ECF No. 1, ¶¶ 47-
21 49. Notwithstanding the previous grant of bond and release from immigration detention,
22 Mr. Mohammad Beigi was at no point entitled to bond, nor did the immigration judge
23 possess jurisdiction to award bond because of Petitioner’s status as an applicant for
24 admission. *Jennings*, 583 U.S. at 287 (An alien who “‘arrives in the United States,’ or ‘is
25 present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for
26 admission.’”) (citing § 1225(a)(1)). Petitioner cites *Jennings* for the proposition that
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1 § 1225(b)(2) “‘applies primarily to aliens seeking entry into the United States” and
2 authorizes DHS to ‘detain an alien without a warrant at the border.’” ECF No. 1, ¶ 64.

3
4 However, *Jennings* does not support such constraints on § 1225:

5 To implement its immigration policy, the Government must be able to
6 decide (1) who may enter the country and (2) who may stay here after entering.

7 That process of decision generally begins at the Nation’s borders and ports
8 of entry, where the Government must determine whether an alien seeking to enter
9 the country is admissible. Under § 302, 110 Stat. 3009-579, 8 U.S.C. § 1225, an
10 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.” § 1225(a)(1).

11 *Jennings*, 583 U.S. at 286-287. (emphasis added). As the Supreme Court noted in *Jennings*,
12 Petitioner’s proximity to the border is not what determines his status as an applicant for
13 admission; rather, *his lack of lawful admission* means that he cannot be anything other than
14 an applicant for admission. *Id.*; see *Thuraissigiam*, 591 U.S. at 109 (“[A]n alien present in
15 the United States who has not been admitted . . .’ is deemed ‘an applicant for admission.’”
16 (quoting 8 U.S.C. § 1225(a)(1)); *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA
17 2025) (“Congress has defined the concept of an ‘applicant for admission’ in an
18 unconventional sense, to include not just those who are expressly seeking permission to
19 enter, but also those who are present in this country without having formally requested or
20 received such permission . . .”); see e.g., *Hing Sum*, 602 F.3d at 1101 (“By defining
21 ‘admission’ as ‘lawful entry,’ Congress incorporated this longstanding distinction into the
22 INA.”) (citations omitted).

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27 Furthermore, the nature of Petitioner’s proceedings (whether expedited or full
28 removal proceedings) is irrelevant to that determination. See ECF No. 1, ¶¶ 50-53; *but see*

1 *e.g.*, *Flores*, 934 F.3d at 916-17 (noting the government’s broad discretion to place
2 noncitizens in either form of removal proceeding when either §§ 1225(b)(1) or (b)(2) could
3 be applied). Applicants for admission “shall be detained for a proceeding under section
4 1229a[.]” 8 U.S.C. § 1225(b)(2)(A). As such, Petitioner failed to adequately support his
5 claim that he is detained under another provision than the mandatory detention required
6 under § 1225(b), and his Petition should be dismissed.
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9 **II. Petitioner’s Habeas Petition Should be Dismissed Because His**
10 **Detention Under 1225(b) Does not Violate Fifth Amendment Due**
11 **Process.**

12 As discussed, Mr. Mohammad Beigi is held in mandatory detention under § 1225(b)
13 pending the resolution of his removal proceedings. Section 1225(b) “mandate[s] detention
14 of aliens throughout the completion of applicable proceedings and not just until the moment
15 those proceedings begin.” *Jennings*, 583 U.S. at 302. This conclusion conforms with the
16 long-running understanding that the due process rights of applicants for admission are
17 limited. “Whatever the procedure authorized by Congress is, it is due process as far as an
18 alien denied entry is concerned.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206,
19 212 (1953) (citation and quotation omitted). This principle was affirmed in *Thuraissigiam*,
20 when the Court held that “an alien at the Threshold of initial entry” has no procedural due
21 process rights “other than those afforded by statute.” 591 U.S. at 107; *see id.* at 140.
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25 In applying *Thuraissigiam*, the Ninth Circuit addressed a petition for review of an
26 arriving alien placed into expedited removal proceedings under § 1225(b)(1). *In Mendoza-*
27 *Linares v. Garland*, the Ninth Circuit concluded:
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1 *Thuraissigiam* reaffirmed that “an alien seeking initial admission to the United
2 States requests a privilege and has no constitutional rights regarding his
3 application,” meaning that such an alien “has only those rights regarding
4 admission that Congress has provided by statute.” 140 S. Ct. at 1982-83 (citation
5 omitted). Accordingly, any rights Mendoza-Linares may have in regard to
removal or admission are purely statutory in nature and are not derived from, or
protected by, the Constitution’s Due Process Clause.

6 51 F.4th at 1167. (emphasis added); *see also Guerrier v. Garland*, 18 F.4th 304, 310 (9th
7 Cir. 2021) (“[I]n the expedited removal context, a petitioner’s due process rights are
8 coextensive with the statutory rights Congress provides.”); *Rauda v. Jennings*, 8 F.4th
9 1050, 1058 (9th Cir. 2021) (“Congress has already balanced the amount of due process
10 available to petitioners with the executive’s prerogative to remove individuals, and we
11 decline to expand judicial review beyond the parameters set by Congress.”). The Supreme
12 Court made clear “[Sections] 1225(b)(1) and (b)(2) . . . provide for detention for a specified
13 period of time,” namely “throughout the completion of applicable proceedings. *Jennings*,
14 583 U.S. at 299, 302; *id.* at 300 (“neither provision can reasonably be read to limit detention
15 to six months.”). The *Jennings* Court also noted that §1225(b) is neither indefinite nor
16 ambiguous to justify applying the canon of constitutional avoidance to save it from
17 encroaching on Due Process. *See id.* at 299-301 (distinguishing *Zadvydas* by comparing
18 the permissive “may” used in § 1231(a)(6) with the specified times and mandatory “shall”
19 in §§ 1225(b)(1) and (b)(2)). In effect, when invited to evaluate constitutional concerns
20 with the statutory language of, *inter alia*, § 1225(b)(2), the Supreme Court found no such
21 concern warranted.
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1 Several courts have cited *Thuraissigiam* as support for their holdings that arriving
2 aliens detained under § 1225(b)(1) do not have a due process right to release or a bond
3 hearing after being detained for a certain period of time. *See Rodriguez Figueroa v.*
4 *Garland*, 535 F. Supp. 3d 122, 126-27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513
5 F. Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 578-79
6 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).
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9 Other Circuits also agree that due process rights are limited to what is provided by
10 statute. *See Tazu v. Att’y Gen. U.S.*, 975 F.3d 292, 300 (3d Cir. 2020) (“Tazu’s
11 constitutional right to habeas likely guarantees him no more than the relief he hopes to
12 avoid—release into ‘the cabin of a plane bound for [Bangladesh].’” (quoting
13 *Thuraissigiam*, 591 U.S. at 119)); *United States v. Guzman*, 998 F.3d 562, 569 (4th Cir.
14 2021) (“On that issue and with the support of *Thuraissigiam*, we hold that the Due Process
15 Clause did not entitle Guzman to counsel when apprehended at the border and promptly
16 removed.”); *Martinez v. LaRose*, 980 F.3d 551, 552 (6th Cir. 2020) (Thapar, J., concurring)
17 (“When an alien attempts to cross our border illegally, the Due Process Clause does not
18 require the government to release him into the United States. Instead, the government may
19 detain him while it arranges for his return home.”). Several district court decisions likewise
20 rely on *Mezei* to deny habeas claims based on due process to noncitizens detained under
21 § 1225(b). *See, e.g., Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 650 (S.D.N.Y. 2018);
22 *Petgrave*, 529 F. Supp. 3d 1202; *D.A.V.V. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:20-CV-
23 159-WLS-MSH, 2020 WL 13240240, at *6 (M.D. Ga. Dec. 7, 2020) (magistrate judge
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1 decision). Even when specific circumstances of a given precedent differ from the facts of
2 a new case, the same general rule applies. As the court in *Poonjani* reasoned:

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

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

9 Petitioner further cites several authorities for the proposition that he possesses
10 significant liberty interests which much be balanced against the necessity of his detention.
11 See ECF No. 1, ¶¶ 75-83. To balance these alleged interests, he proposes application of the
12 “*Mathews* test” resolves in favor of a release from custody until the government can show
13 “by clear and convincing evidence that [Petitioner] is a flight risk or danger to the
14 community.” *Id.*, ¶ 96; see also *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
15 Application of *Mathews* presupposes that Petitioner’s liberty interests are commensurate
16 with those of aliens who are lawfully present (e.g., *admitted*) into the United States; but
17 they are not as demonstrated by *Thuraissigiam*, *Jennings*, *Mezei*, and *Mendoza-Linares*
18 and as applied by the mandatory detention provisions for applicants for admission.
19 Notably, Mr. Mohammad Beigi’s citation to *Rodriguez Diaz v. Garland* further highlights
20 the disparity of liberty interests. In *Rodriguez Diaz*, the Ninth Circuit declined to find
21 sufficient basis for the reversal of burdens of proof in the context of bond redetermination
22 hearings under § 1226(a). See 53 F.4th 1189, 1211 (9th Cir. 2022).
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28 We have not previously held that cases involving heightened burdens of proof
for the deprivation of liberty interests of U.S. citizens apply coextensively to alien

1 detainees who have been subject to § 1226(a) When, as here, those processes
2 have been available to the alien from the beginning, we think under *Mathews* that
3 the more applicable line of authority is the Supreme Court’s immigration
4 detention cases. *See Miranda*, 34 F.4th at 359 & n.9 (agreeing that the Supreme
5 Court’s civil commitment cases are inapposite because they “involved detention
of United States citizens whereas § 1226(a) involves detention of aliens awaiting
removal hearings”).

6 *Id*; see also *Demore v. Kim*, 538 U.S. 510, 512 (2003) (noting the Constitution permits
7 “rules that would be unacceptable if applied to citizens.”). Petitioner is even further
8 removed from *Rodriguez Diaz*, since, under the INA, he is not treated as an alien present
9 in the United States under § 1226(a); rather, he is subject to an even lower Constitutional
10 bar as an applicant for admission. *See, e.g., Thuraissigiam*, 591 U.S. at 119-20.

13 Petitioner, in passing, asserts that the previous allegations regarding the
14 unlawfulness of detaining him under § 1225(b) and the alleged violation of his Due Process
15 give rise to “arbitrary and capricious” agency action. ECF No. 1, ¶ 111. As previously
16 discussed, Mr. Mohammad Beigi has failed to demonstrate that he is not an applicant for
17 admission lawfully detained and afforded the full extent of process he is due under the Fifth
18 Amendment. Petitioner’s reiteration of the facts and allegations are insufficient to give rise
19 to a separate APA claim under the heightened pleading requirements in habeas
20 proceedings. As the Advisory Committee Note on Habeas Corpus Rule 4 states, “notice
21 pleading is not sufficient, for the petition is expected to state facts that point to a real
22 possibility of constitutional error.” 28 U.S.C., p. 471; see also *Torres-Aguilar v. INS*, 246
23 F.3d 1267, 1271 (9th Cir. 2001) (“a petitioner may not create the jurisdiction that Congress
24 chose to remove simply by cloaking [a claim] in constitutional garb” or “through the facile
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1 device of re-characterizing” claims to avoid a clear jurisdictional bar).

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3 Given the narrow scope of Due Process afforded Mr. Mohammad Beigi under the
4 Fifth Amendment, he has been afforded the full suite—i.e., section 1229a removal
5 proceedings and civil detention until the completion of those proceedings. As such,
6 Petitioner’s arguments and allegations are insufficient to establish a Due Process violation,
7
8 and his Petition should be dismissed.

9 **III. Even If Petitioner is Entitled to Redetermination of His Custody Status,**
10 **Changed Circumstances Warranted Re-Detention.**

11 Assuming *arguendo* that Mr. Mohammad Beigi’s prior release from detention
12 entitles him to custody redetermination, he failed to establish that his re-detention was
13 unlawful on the basis that there has been no “material change in circumstances” that would
14 subject Petitioner to re-detention. ECF No. 1, ¶ 70. There has in fact been a change in
15 circumstances justifying Petitioner’s re-detention and the Court lacks jurisdiction to review
16 the decision any further. 8 U.S.C. § 1226(e) (“No court may set aside any action or decision
17 by the [Secretary of Homeland Security] under this section regarding the detention or
18 release of any alien or the grant, revocation, or denial of bond or parole.”)

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22 Courts in this district rely on *Matter of Sugay*, 17 I. & N. Dec. 637 (BIA 1981), for
23 the proposition that once an alien has been ordered released by an immigration judge, DHS
24 cannot re-detain him without showing a change in circumstances. *See, e.g., Van Tran v.*
25 *Noem*, No. 25-CV-2334-JES-MSB, 2025 WL 2770623, at *3 (S.D. Cal. 2025); *Sanchez v.*
26 *LaRose*, 2025 WL 2770629, at *3 (S.D. Cal. 2025) (“To satisfy due process, those changed
27
28 circumstances must represent individualized legal justification for detention.”). The Ninth

1 Circuit has not weighed in on what constitutes “changed circumstances,” but the findings
2 in *Sugay* support Respondents here. In *Sugay*, the BIA found that “newly developed
3 evidence brought out at the deportation hearing, combined with the fact that the respondent
4 has been ordered deported and his applications for suspension and withholding of
5 deportation were denied” represented a “considerable change in circumstances which
6 justify the District Director’s decision to raise the amount of bond.” *Matter of Sugay*, 17 I.
7 & N. Dec. at 640.

10 As referenced above, during his removal proceedings and subsequent to being
11 released from immigration detention, Petitioner was arrested and charged in connection
12 with a domestic violence incident. *See* ECF No. 1, ¶¶ 17, 20; Ex. 1, at 5-6. Respondents
13 lawfully relied on Petitioner’s domestic violence arrest as a change in circumstances
14 warranting Petitioner’s re-detention. *Matter of Sugay*, 17 I. & N. Dec. at 640. As such, even
15 if Petitioner were entitled to a redetermination of his previous bond, changed circumstances
16 justified his re-arrest and subsequent return to immigration detention.

19
20 **CONCLUSION**

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

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24 ***

25 DATED: November 24, 2025

Respectfully Submitted,

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27 BRET A. SHUMATE
Assistant Attorney General
28 Civil Division

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CERTIFICATE OF SERVICE

3:25-cv-3193-DMS-MMP

I hereby certify that on November 24, 2025, I filed this document with the Clerk of the Court through the CM/ECF system, which will provide electronic notice and an electronic link to this document to all counsel of record.

Respectfully submitted,

/s/ Joshua A. Clem

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