

1 ERIC GRANT
United States Attorney
2 JAMES CONOLLY
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
Facsimile: (916) 554-2900
5

6 Attorneys for Plaintiff
United States of America
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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 BERTIN MONGE GOMEZ,
11
Petitioner,
12
v.
13
WARDEN OF THE GOLDEN STATE
14 ANNEX DETENTION FACILITY, et al.,
15
Respondents.

CASE NO. 1:25-CV-1724-DJC-SCR

ANSWER IN OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS

16
17 **I. INTRODUCTION**

18 This Court should deny Bertin Monge Gomez' ("Petitioner") petition because his detention is
19 lawful as he is being detained pursuant to the mandatory detention statute, 8 U.S.C. § 1225(b).
20 Petitioner is currently detained under 1225(b)(2) as being an applicant for admission who entered the
21 U.S. without inspection and was never placed in expedited removal proceedings but instead was served
22 with a Notice to Appear. Perhaps more importantly, however—and contrary to Petitioner's assertions
23 (ECF No. 1 at 2)—Petitioner has already had a bond hearing, at which an Immigration Judge ordered
24 him detained, finding he had not shown that he does not pose a danger to the community following his
25 arrests and convictions for driving under the influence of alcohol and other traffic-related crimes. He
26 has already been given the bond hearing he seeks. His petition is therefore moot and should be denied.

27 Because there is no regulatory, statutory, or constitutional requirement that Petitioner be afforded
28 another bond hearing before an Immigration Judge, Petitioner's claim that he should be, at which the

1 government bears the burden of proof, should be denied. In addition, Petitioner is scheduled for a
2 hearing on the merits of his application for relief from removal, which has been continued
3 approximately five times since he was detained in June 2025, at the request either of Petitioner or his
4 attorneys. Any claim that his detention has been unduly prolonged should likewise fail.

5 **II. FACTUAL BACKGROUND**

6 **A. Arrival into the United States**

7 Petitioner is a citizen and national of Mexico who arrived in the United States without the
8 necessary legal documents to enter, pass through, or remain in the United States. Government's Exhibit
9 1 (relevant documents from Petitioner's immigration proceedings) at 2. According to DHS records,
10 Petitioner entered into the United States most recently at an unknown place, on an unknown date, and
11 was found not to have been admitted or paroled after inspection by an Immigration Officer. *Id.* at 2.
12 He applied for Immigration benefits and had no immigration status as of the date he was apprehended in
13 this matter. *Id.* at 2.

14 **B. Immigration History**

15 On February 26, 2008, Petitioner was apprehended by Customs and Border Protection agents and
16 granted a voluntary return to Mexico. *Id.* at 2. Petitioner claimed that he then re-entered the United
17 States without inspection on March 5, 2008. *Id.* at 3.

18 On April 2, 2024, Petitioner Filed I-485 that is currently pending before United States
19 Citizenship and Immigration Services (USCIS).¹ *Id.* at 3.

20 **C. Criminal History**

21 On August 20, 2015, Petitioner was convicted in Tulare County, California, of driving under
22 influence of alcohol (misdemeanor) and received a sentence of eight days in jail, with 48 months of
23 probation.

24 On February 27, 2023, Petitioner was convicted in Tulare County, for driving on a suspended
25 license and driving without an interlock device (misdemeanors) and received a sentence of ten days in
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27 ¹ USCIS is not a party to this case and its processes are separate and apart from those of DHS
28 and ICE. It does not appear that Petitioner has filed a Form I-485 with EOIR. The government is also
unaware of Petitioner having an EOIR Form 42B, as Petitioner claims in the Petition. ECF No. 1 at 5.

1 jail, with 12 months of probation.

2 On September 7, 2023, Petitioner was again convicted in Tulare County, for driving under the
3 influence of alcohol and driving without a license (misdemeanors) and sentenced to thirty days in jail,
4 with 36 months of probation.²

5 **D. Removal Proceedings**

6 DHS took Petitioner into custody on June 23, 2025, after it had been alerted to an appointment
7 Petitioner had with USCIS regarding the Form I-485 he had filed with USCIS.

8 On July 7, 2025, DHS initiated removal proceedings by filing a Notice to Appear, charging
9 Petitioner with “inadmissibility under section 212(a)(6)(A)(i) of the Immigration and Nationality Act
10 (“Act”), in that he is an alien present in the United States without being admitted or paroled, or who
11 arrived in the United States at any time or place other than as designated by the Attorney General.” Ex.
12 1 at 4. DHS filed additional charges of inadmissibility/deportability on August 6, 2025, under Section
13 212(a)(7)(A)(i)(I), “as an immigrant who, at the time of application for admission, is not in possession
14 of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document
15 required by the Act, and a valid unexpired passport, or other suitable travel document, or document of
16 identity and nationality if such document is required under the regulations issued by the Attorney
17 General under section 211(a) of the Act.” Ex. 1 at 7.

18 At a bond hearing on August 7, 2025, before an Immigration Judge, at which Petitioner was
19 represented by counsel, the IJ denied his request for change in custody status, citing “multiple arrests
20 and convictions for driving under the influence of alcohol, including an occasion when he was also
21 convicted of hit and run,” as well as a conviction for driving on a suspended license as recently as 2023.
22 Ex. 1 at 9. The IJ concluded that “in light of this prolonged and serious history of engaging in
23 dangerous conduct that respondent has not met his burden of proving that he does not pose a danger to
24 the community.” *Id.* In making its ruling, the Immigration Court also found that it had jurisdiction over
25 setting bond. *Id.* at 9–10. Through counsel, Petitioner filed a Notice of Appeal from the IJ’s order, on
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27 ² These convictions are taken from Petitioner’s Record of Arrests and Prosecutions (RAP),
28 updated as of October 21, 2025. The government has provided Petitioner’s attorney with a copy of
Petitioner’s RAP sheet.

1 August 14, 2025. *Id.* at 12 – 14.

2 After being taken into custody, Petitioner was scheduled for a hearing on the merits of his
3 application for relief from removal before an Immigration Judge, set for July 7, 2025. Since then, that
4 hearing has been continued approximately five times, including for Petitioner to find counsel and then
5 for counsel preparation. *See, e.g.*, Ex. 1 at 15–18 (relevant portion of Monge-Gomez’ motion to
6 continue removal proceedings). On January 2, 2026, the Immigration Court set the hearing on the
7 merits for Petitioner’s application for relief from removal proceedings for February 10, 2026. *Id.* at 19.

8 **III. NO REMAINING CASE OR CONTROVERSY**

9 Because Petitioner has received the relief he requested in his habeas petition, and been given a
10 bond hearing before an immigration judge, at which he was ordered detained (and has since filed an
11 appeal), this matter is now moot. There is no longer any live case or controversy for this Court to
12 resolve, and the Court should dismiss the petition as moot. *See Flores–Torres v. Mukasey*, 548 F.3d 708,
13 710 n.3 (9th Cir. 2008) (dismissing as moot a challenge to immigration detention without a hearing
14 because the alien had subsequently received a hearing); *see also Picrin–Peron v. Rison*, 930 F.2d 773,
15 776 (9th Cir. 1991) (finding that because petitioner only requested release from custody and had been
16 released, the court could provide no further relief and the petition was properly dismissed); *Abdala v.*
17 *INS*, 488 F.3d 1061, 1064–65 (9th Cir. 2007) (discussing and collecting cases in which a petitioner’s
18 release from detention, parole, or removal rendered a habeas petition moot). The IJ adjudicated
19 Petitioner’s request for change in custody status on the merits and found it lacking. Ex. 1 at 9–10.
20 Petitioner provides no basis to set aside the IJ’s ruling. Petitioner has filed a notice of appeal to the IJ’s
21 order of detention, but he has not alleged in the instant petition any defect in the bond proceeding or the
22 bases for the IJ’s decision.³ *Id.* at 12–14.

23 The Court does not have subject matter jurisdiction to consider a habeas claim that is moot.
24 *McCullough v. Graber*, 726 F.3d 1057, 1060 (9th Cir. 2013). Here, Petitioner’s detention following a
25 bond hearing renders moot the claims raised in his habeas petition. Petitioner has not sought leave to

26 _____
27 ³ In the petition, Petitioner claims that the IJ “said she did not have jurisdiction to give me [the
28 Petitioner] bond.” ECF No. 1 at 5. But that is not true. The IJ’s order for detention states explicitly that
she had jurisdiction. Ex. 1 at 9–10. At the hearing, DHS waived its right to appeal the IJ’s finding that
the immigration court had jurisdiction over the bond hearing. *Id.* at 11.

1 amend the Petition. There is no remaining form of relief that this Court might give as pertains to
2 Petitioner's original claims. Therefore, the Court should dismiss the petition in its entirety as there is no
3 longer a live a case or controversy as relates to the habeas petition.

4 **IV. ADDITIONAL REASONS TO DENY THE PETITION.**

5 **A. This Court should dismiss the Petition based on Petitioner's failure to exhaust his**
6 **administrative remedies.**

7 This Court should also dismiss the petition as Petitioner has not exhausted his administrative
8 remedies for any outstanding relief sought, as his appeal to the IJ's bond determination remains
9 outstanding. When an individual fails to exhaust appellate review at the BIA, courts should "ordinarily"
10 dismiss the habeas petition without prejudice or stay proceedings until she exhausts her appeals. *See*
11 *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). Bypassing review at the BIA is an
12 "improper" "short cut." *Id.* The Ninth Circuit identifies three reasons to require exhaustion before
13 entertaining a habeas petition. *See Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). First, the
14 agency's expertise makes its "consideration necessary to generate a proper record and reach a proper
15 decision." *Id.* (quoting *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003)). Second,
16 excusing exhaustion encourages "the deliberate bypass of the administrative scheme." *Id.* (quoting
17 *Noriega-Lopez*, 335 F.3d at 881). And, third, "administrative review is likely to allow the agency to
18 correct its own mistakes and to preclude the need for judicial review." *Id.* (quoting *Noriega-Lopez*, 335
19 F.3d at 881). Each reason applies here.

20 **1. Exhaustion is warranted in this case.**

21 Petitioner asserts that § 1226(a) mandates that detained individuals receive a bond hearing "at the
22 outset of detention and provides for further bond hearings upon a material change in circumstance."
23 ECF No. 1 at 12. The United States, on the other hand, maintains that the appropriate framework is
24 § 1225. Thus, this Court likely would benefit from the BIA's expertise. *See Puga*, 488 F.3d at 815.
25 After all, "the BIA is the subject-matter expert in immigration bond decisions." *Aden v. Nielsen*, 2019
26 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019). And the BIA is well-positioned to assess the interplay
27 between § 1225 and § 1226.

28 Moreover, the BIA exists to, among other things, resolve disputes such as that here. *See* 8 C.F.R.

1 § 1003.1(d)(1). By regulation:

2 [T]he [BIA], through precedent decisions, shall provide clear and uniform guidance to
3 DHS, the immigration judges, and the general public on the proper interpretation and
4 administration of the [INA] and its implementing regulations.

5 *Id.*

6 Waiving exhaustion also would “encourage other detainees to bypass the BIA and directly
7 appeal their no-bond determinations from the IJ to federal district court.” *Aden*, 2019 WL 5802013,
8 at *2. Individuals, like Petitioner, would have little incentive to seek relief before the BIA if this Court
9 permits review here. Allowing petitioners to employ the strategy of skipping the BIA and going straight
10 to federal court would needlessly increase the burden on district courts. *See Bd. of Tr. of Constr.*
11 *Laborers’ Pension Trust for S. Calif. v. M.M. Sundt Constr. Co.*, 37 F.3d 1419, 1420 (9th Cir. 1994)
12 (“Judicial economy is an important purpose of exhaustion requirements.”); *see also Santos-Zacaria v.*
13 *Garland*, 598 U.S. 411, 418 (2023) (noting “exhaustion promotes efficiency”).

14 2. **Excusing exhaustion here would encourage bypassing the administrative**
15 **scheme.**

16 Federal courts are “not free to address the underlying merits [of a habeas petition] without first
17 determining the exhaustion requirement has been satisfied or properly waived.” *Laing v. Ashcroft*, 370
18 F.3d 994, 998 (9th Cir. 2004). Discretion to waive exhaustion “is not unfettered.” *Id.* A petitioner
19 bears the burden to show that an exception to the exhaustion requirement applies. *Leonardo*, 646 F.3d at
20 1161; *Aden*, 2019 WL 5802013, at *3. Petitioner has not done so here.

21 Detention alone is insufficient to excuse exhaustion through a BIA appeal. *See, e.g., Delgado v.*
22 *Sessions*, No. C17-1031-RSL-JPD, 2017 WL 4776340, at *2 (W.D. Wash. Sept. 15, 2017), *report and*
23 *recommendation adopted*, No. C17-1031-RSL, 2017 WL 4700360 (W.D. Wash. Oct. 19, 2017).
24 Adopting such a rationale “would essentially mandate the release of all detainees while their appeals
25 were pending and, thereby, stand the exhaustion requirement on its head.” *Meneses v. Jennings*, No. 21-
26 CV-07193-JD, 2021 WL 4804293, at *5 (N.D. Cal. Oct. 14, 2021), *abrogated on other grounds by Doe*
27 *v. Garland*, 109 F.4th 1188 (9th Cir. 2024); *see also Bogle v. DuBois*, 236 F. Supp. 3d 820, 823 n.6
28 (S.D.N.Y. 2017) (noting that “continued detention . . . is insufficient to qualify as irreparable injury

1 justifying non-exhaustion”) (quotation marks omitted).

2 Petitioner fails to mention that he has already had a bond hearing, ignoring the IJ’s ruling and
3 omitting mention of his appeal, when pleading that he has no recourse for his detention. ECF No. 1 at 5.
4 If this can be the standard for irreparable harm—claiming to have no ability to secure a bond hearing
5 without relief on a habeas petitioner, after having been given a bond hearing already—then every single
6 individual who alleges unlawful detention would meet the irreparable-harm standard. *See, e.g.,*
7 *Delgado*, 2017 WL 4776340, at *2. The exception would swallow the rule. *See id.* (“Because all
8 immigration habeas petitions could raise the same argument [that detention is irreparable injury], if it
9 were decisive, the prudential exhaustion requirement would always be waived—but it is not.”).

10 **B. Petitioner Is Detained Under Section 1225, Which Mandates Detention**

11 **1. “Applicants for Admission” Under 8 U.S.C. § 1225**

12 The Immigration and Nationality Act (“INA”) defines an “applicant for admission” as an “alien
13 present in the United States who has not been admitted or who arrives in the United States (whether or
14 not at a designated port of arrival . . .)” 8 U.S.C. § 1225(a)(1); *Thuraissigiam*, 591 U.S. at 140 (“an alien
15 who tries to enter the country illegally is treated as an ‘applicant for admission’”) (citing 8 U.S.C.
16 § 1225(a)(1)); *Matter of Lemus*, 25 I & N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept
17 of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly
18 seeking permission to enter, but also those who are present in this country without having formally
19 requested or received such permission[.]”). However long they have been in this country, an alien who is
20 present in the United States but has not been admitted “is treated as ‘an applicant for admission.’”
21 *Jennings*, 583 U.S. at 287.

22 Under Section 212(a) of the INA, 8 U.S.C. § 1182(a), certain classes of aliens are inadmissible
23 — and therefore ineligible to be admitted to the United States — including those “present in the United
24 States without being admitted or paroled[.]” *Id.* § 1182(a)(6)(A)(i).

25 **2. Detention Under 8 U.S.C. § 1225**

26 Applicants for admission, including those like Petitioner who are present without being admitted
27 or paroled, may be removed from the United States by expedited removal under § 1225(b)(1), or full
28 removal proceedings before an immigration judge under 8 U.S.C. § 1229a, pursuant to § 1225(b)(2).

1 All applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those
2 covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287
3 (“[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until
4 certain proceedings have concluded.”). Petitioner is undergoing full removal proceedings before an
5 immigration judge under 8 U.S.C. § 1229a. Here, Petitioner is detained pursuant to § 1225(b)(2)(A).

6 Under Section 1225(b)(2), an alien “who is an applicant for admission” is subject to mandatory
7 detention pending full removal proceedings “if the examining immigration officer determines that [the]
8 alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C.

9 § 1225(b)(2)(A) (requiring that such aliens “be detained for a proceeding under section 1229a of this
10 title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (proceedings under section 1229a are “full
11 removal proceedings under section 240 of the INA”); *see also id.* (“[F]or aliens arriving in and seeking
12 admission into the United States who are placed directly in full removal proceedings, [] 8 U.S.C.

13 § 1225(b)(2)(A)[] mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*,
14 583 U.S. at 299); 8 C.F.R. § 235.3(b)(3) (an alien placed into § 1229a removal proceedings in lieu of
15 expedited removal proceedings under § 1225(b)(1) “shall be detained” pursuant to § 1225(b)(2)). DHS
16 has the sole discretionary authority to temporarily release on parole “any alien applying for admission to
17 the United States” on a “case-by-case basis for urgent humanitarian reasons or significant public
18 benefit.” 8 U.S.C. § 1182(d)(5)(A); *see also Biden v. Texas*, 597 U.S. 785, 806 (2022).

19 3. Detention Under 8 U.S.C. § 1226(a)

20 A different statutory detention authority, 8 U.S.C. § 1226, applies to aliens who have been
21 lawfully admitted into the U.S. but are deportable and subject to removal proceedings. Section 1226(a)
22 provides for the arrest and detention of these aliens “pending a decision on whether the alien is to be
23 removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), DHS may, in its discretion,
24 detain an alien during his removal proceedings, release him on bond, or release him on conditional
25 parole.⁴ By regulation, immigration officers can release an alien if he demonstrates that he “would not

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27 ⁴ Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled
28 into the United States under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes v. Gonzales*, 501 F.3d
1111, 1116 (9th Cir. 2007) (holding that because release on “conditional parole” under § 1226(a) is not a
parole, the alien was not eligible for adjustment of status under § 1255(a)).

1 pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R.
2 § 236.1(c)(8). An alien can also request a custody redetermination (*i.e.*, a bond hearing) by an IJ at any
3 time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1),
4 1236.1(d)(1), 1003.19. At a custody redetermination, the IJ may continue detention or release the alien
5 on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad discretion in
6 deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40 (BIA 2006)
7 (listing nine factors for IJs to consider).⁵

8 Ultimately, even if Petitioner’s case fell within § 1226, it would make no difference. He was
9 afforded a bond hearing at which the IJ found him to have failed to rebut the evidence that he is a danger
10 to the community, arising from two arrests for driving under the influence of alcohol, and ordered that
11 he remain detained.

12 II. MANDATORY DETENTION UNDER 8 U.S.C § 1225(B)

13 Petitioner was arrested by immigration authorities in June 2025, after illegally entering the
14 United States, at an unknown place and time. Ex. 1 at 2, 4. When arrested, Petitioner was designated as
15 an alien present in the United States without being admitted or paroled. *Id.* Critically, Petitioner was not
16 first arrested for being in the United States and then released on parole, as is the situation in many of the
17 habeas cases the Court has seen in recent months.

18 Petitioner is detained pursuant to § 1225(b)(2)(A), which provides that petitioner “shall” be
19 detained. Because Petitioner is currently detained under 8 U.S.C. § 1225(b)(2)(A), he is therefore
20 ineligible for release under 8 U.S.C. § 1226(a). He seeks to circumvent the detention statute under
21 which he is rightfully detained to secure a custody redetermination hearing that he is not entitled to.
22 Petitioner argues that he is entitled to a bond hearing, ignoring that he has already had one, and also fails
23 to include that he (or his counsel) has asked to continue his own hearings approximately five times.
24

25 ⁵ Until recently, the government interpreted § 1226(a) to be an available detention authority for
26 aliens present without being admitted or paroled placed directly in full removal proceedings under
27 § 1229a. *See, e.g., Ortega-Cervantes*, 501 F.3d at 1116. In view of legal developments, the government
28 has determined that this interpretation was incorrect, and that § 1225 is the sole applicable immigration
detention authority for *all* applicants for admission. *See Jennings*, 583 U.S. at 297 (“Read most
naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain
proceedings have concluded.”).

1 Moreover, his position fails to square with the fact that he falls neatly and precisely within the statutory
2 definition of aliens subject to detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

3 Detention under this statute is thus mandatory, and the only mechanism for release is parole,
4 which may be permitted under 8 U.S.C. § 1182(d)(5) as an exercise of the discretion of the Department
5 of Homeland Security. DHS has exercised its discretion in keeping Petitioner detained in this case, and
6 an IJ has determined that his detention is justified.

7 **III. THERE IS NO CONSTITUTIONAL RIGHT TO AN IMMIGRATION COURT BOND**
8 **HEARING AND PETITIONER'S RIGHT TO DUE PROCESS HAS NOT BEEN VIOLATED.**

9 This case is distinguishable from others presenting similar arguments because Petitioner has had
10 a bond hearing, and the length of his detention has been largely a function of the continuances he has
11 sought in his removal proceedings. He cannot therefore argue his detention has been without review or
12 has become improperly prolonged by any fault of the Respondents. This carries significant implications
13 for the contours of his due process rights. An alien who has not effected a legal entry, i.e., has not been
14 admitted into the United States, is entitled only to “[w]hatever the procedure authorized by Congress is.”
15 *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (quoting *United States ex rel.*
16 *Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950)); see also *Thuraissigiam*, 591 U.S. at 140 (an alien
17 detained after unlawful entry “has only those rights regarding admission that Congress has provided by
18 statute”); *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015) (for “those . . . who have never technically
19 ‘entered’ the United States . . . procedural due process is simply whatever the procedure authorized by
20 Congress happens to be”). This makes sense, since “an alien seeking initial admission to the United
21 States requests a privilege and has no constitutional rights regarding his application.” *Barrera-*
22 *Echavarria*, 44 F.3d at 1449.

23 “[A]pplicants for admission have virtually no constitutional rights regarding their applications.”
24 *Valencia v. Mukasey*, 548 F.3d 1261, 1263 (9th Cir. 2008) (citing *Landon v. Plasencia*, 459 U.S. 21, 33-
25 34 (1982)). “Whatever the procedure authorized by Congress is, it is due process as far as an alien
26 denied entry is concerned.” *Shaughnessy*, 338 U.S. at 544. Thus, when it “involve[s] an asylum
27 applicant who had not ‘technically entered the United States,’ [the Court] examine[s] only whether the
28 government violated the statutory rights that Congress afforded such applicants.” *Grigoryan v. Barr*,

1 959 F.3d 1233, 1241 (9th Cir. 2020) (citation omitted).

2 Immigration laws have long authorized immigration officials to charge aliens as removable from
3 the country, to arrest aliens subject to removal, and to detain aliens for removal proceedings. *Demore v.*
4 *Kim*, 538 U.S. 510, 523–26 (2003); *Abel v. United States*, 362 U.S. 217, 232–37 (1960) (discussing
5 longstanding administrative arrest procedures in deportation cases). In the Immigration and Nationality
6 Act, Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a
7 decision on removal, during the administrative and judicial review of removal orders, and in preparation
8 for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. “Detention during removal proceedings is a
9 constitutionally valid aspect of the deportation process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848
10 (2d Cir. 2020) (citing *Demore*, 538 U.S. at 523 n.7) (“prior to 1907 there was no provision permitting
11 bail for any aliens during the pendency of their deportation proceedings”); *Carlson v. Landon*, 342 U.S.
12 524, 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”); *Reno v. Flores*, 507
13 U.S. 292, 306 (1993) (“Congress eliminated any presumption of release pending deportation,
14 committing that determination to the discretion of the Attorney General.”).

15 The government’s interest in protecting the public and preventing deportable non-citizens from
16 fleeing are strong and compelling. *See e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir.
17 2022) (government’s interests in “protecting the public from dangerous criminal aliens” and
18 “increas[ing] the chance that, if ordered removed, the aliens will be successfully removed” are “interests
19 of the highest order that only increase with the passage of time”).

20 The courts have recognized that “there is little question that the civil detention of [noncitizens]
21 during removal proceedings can serve a legitimate government purpose, which is ‘preventing deportable
22 ... [noncitizens] from fleeing prior to or during their removal proceedings, thus increasing the chance
23 that, if ordered removed, the [noncitizens] will be successfully removed.’” *Prieto–Romero v. Clark*, 534
24 F.3d 1053, 1065 (9th Cir. 2008) (citing *Demore v. Kim*, 538 U.S. 510, 528 (2003)).

25 The mandatory detention statute does not provide for bond hearings as demanded in the petition,
26 especially when the length of Petitioner’s detention has been determined largely by the continuances he
27 has requested himself – either directly or through counsel. Congress in the INA did provide for the
28 possibility of parole in the discretion of the agency. 8 U.S.C. § 1182(d)(5). Due process requires no

1 further relief than that already provided in the parole process authorized by Congress.

2 V. CONCLUSION

3 For the foregoing reasons, this Court should dismiss the habeas petition in its entirety as moot.
4 Alternatively, this Court should deny the petition as Petitioner has not exhausted administrative
5 remedies.

6 Dated: January 8, 2026

7 ERIC GRANT
United States Attorney

8
9 By: /s/ JAMES CONOLLY
10 JAMES CONOLLY
Assistant United States Attorney