ERIC GRANT
United States Attorney
JOSEPH FRUEH
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
E-mail: joseph.frueh@usdoj.gov
Telephone: (916) 554-2702
Facsimile: (916) 554-2900

Attorneys for the United States

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

NARCISA DE JESUS YUGLA ALOMALIZA,

Petitioner,

v.

TIMOTHY S. ROBBINS, *et al.*,[1]

Respondents.

No. 1:25-cv-01735-WBS-CKD

**MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS; RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

[1] The official with custody of the petitioner is the proper respondent to a habeas petition. 28 U.S.C. § 2242; *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024). Here, Petitioner's custodian is the Warden of the California City Correctional Facility, Christopher Chestnut. *See* ECF 1 ¶ 17. All other named Respondents in this action should be dismissed.

## TABLE OF CONTENTS

Page

I. INTRODUCTION ........ 1

II. BACKGROUND ........ 1

III. ARGUMENT ........ 3

A. Petitioner's due-process claim fails because DHS complied with all mandatory legal requirements for revoking her release. ........ 3

B. This Court's prior determination regarding the proper scope of Petitioner's due-process protections was correct and, in any event, is law of the case ........ 4

C. Even if the *Mathews* test applied for determining Petitioner's due-process protections, that test does not compel release here. ........ 6

IV. CONCLUSION ........ 7

# MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

## I. INTRODUCTION

Petitioner Narcisa De Jesus Yugla Alomaliza is a native and citizen of Ecuador. She illegally entered the United States without inspection and was arrested and placed in removal proceedings. The Department of Homeland Security ("DHS") released Petitioner on her own recognizance due to detention-capacity issues.

Petitioner's release was conditioned on several requirements, and she was advised that the failure to comply may result in revocation of her release without further notice. She proceeded to violate these conditions five times and was arrested and detained as her removal proceedings move forward.

Pursuant to 28 U.S.C. § 2241, Petitioner now seeks a writ of habeas corpus, contending that the revocation of her release violated the Due Process Clause of the Fifth Amendment. But, as this Court previously held (ECF 6, at 3:20–4:22), Petitioner was not admitted into the United States and thus has "only those rights regarding admission that Congress has provided by statute," and "the Due Process Clause provides nothing more." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020); *see Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892) (explaining that, for noncitizens who were never admitted into the United States, "the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, *are* due process of law" (emphasis added)); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) ("Whatever the procedure authorized by Congress is, it is due process . . . ."). In turn, while noncitizens who are granted parole under 8 U.S.C. § 1182(d)(5)(A) receive formal notice of the revocation of parole under 8 C.F.R. (Part 212) § 212.5, such procedures do not apply to the revocation of Petitioner's release here. *See* Declaration of Edwin Vladimir Cordova Morejon ("Cordova Morejon Decl.," ECF 2-2) Ex. 4 (noting that Petitioner was released pursuant to 8 U.S.C. § 1226 and 8 C.F.R. Part 236). For this reason and those further detailed below, Petitioner's habeas action should be dismissed.

## II. BACKGROUND

As noted, Petitioner is a native and citizen of Ecuador. Declaration of Deportation Officer Marbella Pano ("Pano Decl.") ¶ 5. She illegally entered the United States near Eagle Pass, Texas, and was apprehended by U.S. Customs and Border Protection officers on March 29, 2024. *Id.* She was

placed in removal proceedings upon service of a Notice to Appear, which charged her as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (noncitizen neither admitted nor paroled after inspection by an immigration officer). *Id.* She was released on her own recognizance due to detention-capacity issues pursuant to 8 U.S.C. § 1226 and 8 C.F.R. Part 236. *Id.* ¶¶ 5–6; Cordova Morejon Decl. Ex. 4.

Before Petitioner's release, she received instructions in the Spanish language advising that failure to comply with the conditions of her release may result in revocation of release without further notice. Pano Decl. ¶ 5. She also was enrolled in DHS's Alternative to Detention ("ATD") program and Intensive Supervision Appearance Program, at which time she signed an ATD enrollment notice advising her that her release was conditioned on enrollment and successful participation in the ATD program. *Id.* ¶ 6. Petitioner was advised that failure to comply with the requirements of the ATD program would result in a determination of her release conditions or her arrest and detention. *Id.*

Petitioner violated the conditions of her release on December 11, 2024, when she did not complete a self-report check-in within her designated zone. *Id.* ¶ 7. Petitioner later reported that she moved outside of her designated zone without first notifying DHS. *Id.*

Petitioner again violated the conditions of her release when she did not complete a self-report check-in on December 20, 2024, and when she failed to complete a self-report check-in within her designated zone on April 25, 2025. *Id.* ¶¶ 8–9. And she violated the conditions of her release two more times on July 18 and August 15, 2025, when she failed to complete self-report check-ins during the designated time periods. *Id.* ¶¶ 10–11.

DHS arrested Petitioner on November 1, 2025, and advised that her ATD enrollment would be terminated due to multiple violations. *Id.* ¶ 12. She was detained pending her appearance in immigration court as her removal proceedings move forward. *Id.* She is presently detained at the California City Detention Facility. *Id.*

Petitioner filed this habeas action on December 4, 2025, alleging that the revocation of her release without prior "written notice and a hearing before a neutral decisionmaker" violated the Due Process Clause of the Fifth Amendment. *See* ECF 1 ¶¶ 50–53. Petitioner also moved for a temporary restraining order directing her immediate release, which this Court denied on December 5, 2025. *See* ECF 2, 3. The Court found that Petitioner was never admitted into the United States, and thus her

procedural guarantees were limited to "whatever the procedure authorized by Congress happens to be." *See* ECF 3, at 4:11–4:22 (quoting *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015)). In turn, pursuant to 8 U.S.C. § 1225(a)(1) and (b), Petitioner is subject to mandatory detention pending her removal proceedings. *See* ECF 3, at 4:11–4:22; *accord, e.g.*, *Cortes Alonzo v. Noem*, --- F. Supp. 3d ----, No. 25-01519, 2025 WL 3208284, at *5 (E.D. Cal. Nov. 17, 2025); *Altamirano Ramos v. Lyons*, --- F. Supp. 3d ---- No. 25-09785, 2025 WL 3199872, at *7–8 (C.D. Cal. Nov. 12, 2025).

## III. ARGUMENT

### A. Petitioner's due-process claim fails because DHS complied with all mandatory legal requirements for revoking her release.

Citing *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner contends that DHS violated the Due Process Clause of the Fifth Amendment by revoking her conditional release without providing advance "written notice and a hearing before a neutral decisionmaker." *See* ECF 1 ¶¶ 46–53. The *Mathews* decision generally held that the "identification of the specific dictates of due process generally requires consideration of three distinct factors." 424 U.S. at 334–35. They are (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

Over the half-century since *Mathews* was decided, the Supreme Court has never used this balancing test to divine the due process requirements for immigration detention. *Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) ("[T]he Supreme Court when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*." (citations omitted)); *id.* at 1214 ("In resolving familiar immigration-detention challenges, the Supreme Court has not relied on the *Mathews* framework.") (Bumatay, J., concurring). This is particularly unsurprising for noncitizens in Petitioner's situation because, under the longstanding "entry fiction" doctrine, noncitizens who are not admitted into the United States have "only those rights regarding admission that Congress has provided by statute," and "the Due Process Clause provides nothing more."

*Thuraissigiam*, 591 U.S. at 140; *Shaughnessy*, 338 U.S. at 544 ("Whatever the procedure authorized by Congress is, it is due process . . . ."); *Altamirano Ramos*, 2025 WL 3199872, at *7–8.

It is undisputed that Petitioner was never admitted into the United States. *See* ECF 1 ¶ 24; Pano Decl. ¶ 5; Cordova Morejon Decl. Ex. 5. And Petitioner cites no statutory or regulatory requirement for advance "written notice and a hearing before a neutral decisionmaker" prior to the revocation of her conditional release, other than 8 C.F.R. § 212.5(e)(2). *See* ECF 1 ¶ 36. The record confirms, moreover, that she was released on her own recognizance due to detention-capacity issues pursuant to 8 U.S.C. § 1226 and 8 C.F.R. Part 236—not 8 U.S.C. § 1182(d)(5)(A) or 8 C.F.R. Part 212. *See* Pano Decl. ¶¶ 5–6; Cordova Morejon Decl. Ex. 4. Petitioner thus has received all the process provided by Congress and the Executive by statute and regulation, and "the Due Process Clause provides nothing more." *Thuraissigiam*, 591 U.S. at 140. This action accordingly should be dismissed.

**B. This Court's prior determination regarding the proper scope of Petitioner's due-process protections was correct and, in any event, is law of the case.**

Some courts have held that the "entry fiction" doctrine only limits procedural due process regarding admission decisions—not decisions regarding the detention of non-admitted noncitizens pending removal. *See Rincon v. Hyde*, No. 25-12633, 2025 WL 3122784, at *6 (D. Mass. Nov. 7, 2025). But nothing in *Thuraissigiam* or other Supreme Court decisions purport to cabin the "entry fiction" doctrine in this way. On the contrary, when applying the "entry fiction" doctrine, the Ninth Circuit and others have found only *substantive* due process guarantees to be potentially relevant for custody determinations for non-admitted noncitizens. *See Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1448–49 (9th Cir. 1995) (en banc); *Sierra v. Immigr. & Naturalization Serv.*, 258 F.3d 1213, 1218 & n.3 (10th Cir. 2001); *see also Bertrand v. Holder*, No. 10-0604, 2011 WL 4356375, at *6 (D. Ariz. Aug. 16, 2011) ("[T]he Ninth Circuit has not extended the protections of procedural due process to inadmissible aliens, and has since reaffirmed that they are 'not entitled to the constitutional protections provided to those, such as deportable aliens, within the territorial jurisdiction of the United States.'" (quoting *Alvarez–Garcia v. Ashcroft*, 378 F.3d 1094, 1098 (9th Cir. 2004))), *adopted*, 2011 WL 4356369 (D. Ariz. Sept. 19, 2011).

1 Some courts similarly have declined to apply the "entry fiction" doctrine to noncitizens who,
2 though never admitted to the United States, have lived "freely, for years, within the United States." *See*
3 *Rincon*, 2025 WL 3122784, at *2; *see also id.* at *6 (declining to apply the "entry fiction" doctrine
4 because a noncitizen "was not 25 yards over the border" or "maintained in an immigration processing
5 center" and instead "lived with relative freedom in the United States for nearly four years"). But
6 imposing some geographic limitation or expiration date on the "entry fiction" doctrine "creates difficult
7 and improper line drawing exercises for courts." *See Altamirano Ramos*, 2025 WL 3199872, at *7.
8 Where, for example, does the doctrine's application end? One mile from the border? Twenty-five
9 miles? And how quickly must the noncitizen be apprehended before the doctrine no longer applies?
10 Within one hour? One day? One week? *See id.* Such questions "are not only difficult"—"they are also
11 not for the courts to answer" because "they are questions 'for the political department of the
12 government.'" *Id.* at *8 (quoting *Thuraissigiam*, 591 U.S. at 139).
13 In any event, this Court has already held that Petitioner was never admitted into the United
14 States, and thus her procedural guarantees were limited to "whatever the procedure authorized by
15 Congress happens to be." *See* ECF 3, at 4:11–4:22 (quoting *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir.
16 2015)). In turn, pursuant to 8 U.S.C. § 1225(a)(1) and (b), Petitioner is subject to mandatory detention
17 pending her removal proceedings. *See* ECF 3, at 4:11–4:22. That legal determination is now law of the
18 case. *See Ranchers Cattlemen Action Legal Fund United Stockgrowers of Am. v. U.S. Dep't of Agric.*,
19 499 F.3d 1108, 1114 (9th Cir. 2007) (holding that while "the general rule" is that "decisions at the
20 preliminary injunction phase do not constitute the law of the case," "conclusions on pure issues of law
21 . . . are binding"); *Torres v. Milusnic*, No. 20-4450, 2020 WL 8611035, at *2 (C.D. Cal. Sept. 18, 2020)
22 ("To the extent Respondents raise identical arguments on pure issues of law previously ruled on by the
23 Court in its Preliminary Injunction Order, the law of the case doctrine applies."); *see also Hueso v.*
24 *Select Portfolio Servicing, Inc.*, 527 F. Supp. 3d 1210, 1227 (S.D. Cal. 2021) ("The Court . . . finds that
25 its legal conclusions in that order [denying the plaintiff's motion for a preliminary injunction and
26 temporary restraining order] applicable to the determination of [the plaintiff's] claim at the 12(b)(6)
27 stage and will abide by them here."). The binding nature of this Court's prior determination has
28 particular force here, where the District Judge who rendered it now sits in review of the assigned

Magistrate Judge's consideration of the habeas petition. *Cf. Nat'l Insts. of Health v. Am. Pub. Health Ass'n*, 145 S. Ct. 2658, 2663 (2025) (Gorsuch, J., concurring in part) (noting that the reasoning in Supreme Court decisions on interim relief is binding on the lower courts); *cf. also Trump v. Boyle*, 145 S. Ct. 2653, 2654 (2025) ("Although our interim orders are not conclusive as to the merits, they inform how a court should exercise its equitable discretion in like cases.").

**C. Even if the *Mathews* test applied for determining Petitioner's due-process protections, that test does not compel release here.**

The three-part balancing test pronounced in *Mathews* does not favor additional procedural requirements here. Petitioner's private interest in remaining free from detention is minimal because it is undisputed that she was never admitted into the United States, and she therefore is deemed to be an "applicant for admission" under 8 U.S.C. § 1225(a)(1) and is subject to mandatory detention under § 1225(b). ECF 3, at 4:11–4:22; *accord, e.g.*, *Cortes Alonzo*, 2025 WL 3208284, at *5; *Altamirano Ramos*, 2025 WL 3199872, at *7–8. Her prior release on her own recognizance under § 1226(a) thus was erroneous and never should have occurred in the first place. The risk of erroneous detention also is limited here for the same reason: it is undisputed that Petitioner is subject to mandatory detention as an "applicant for admission." In turn, "the government clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 518 (2003)). And, "[t]hrough detention, the government likewise seeks to 'increas[e] the chance that, if ordered removed, the aliens will be successfully removed.'" *Id.* (quoting *Demore*, 538 U.S. at 528). Finally, even if the *Mathews* test favored additional procedural requirements to assess the propriety of Petitioner's detention, the appropriate remedy would be to direct that those procedures to occur—not to order her immediate release. *See, e.g.*, *Javier Ceja Gonzalez v. Noem*, No. 25-02054, 2025 WL 2633187, at *6 (C.D. Cal. Aug. 13, 2025) (ordering the government to release Petitioners or, in the alternative, provide each Petitioner with an individualized bond hearing before an immigration judge within seven days).

///

///

///

## IV. CONCLUSION

For the above reasons, Petitioner's petition for a writ of habeas corpus should be dismissed.

Dated: December 29, 2025

Respectfully submitted,

ERIC GRANT
United States Attorney

By: /s/ *Joseph Frueh*
JOSEPH FRUEH
Assistant United States Attorney