United States District Court
Eastern District of Michigan

Evelin Josefina Perez and S.J.Z.P., a minor,

Petitioners,

v.

Kevin Raycraft, Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; U.S. Department of Homeland Security; Pamela Bondi, U.S. Attorney General; Executive Office for Immigration Review; xxx Facility,

Respondents.

Civil No. 25-13931

Honorable Robert J. White

Magistrate Judge Curtis Ivy, Jr.

Response to Petition for a Writ of Habeas Corpus

Respondents submit this response to petitioners' request for a writ of habeas corpus, (ECF No. 1). As described in the attached brief, respondents respectfully request that the Court deny the petition because petitioners are properly detained under 8 U.S.C. § 1225(b)(1) and their detention does not violate the constitution or federal law.

Respectfully submitted,

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Dated: January 5, 2026

United States District Court
Eastern District of Michigan

Evelin Josefina Perez and S.J.Z.P., a minor,

Petitioners,

v.

Kevin Raycraft, Acting Field Office Director of Enforcement and Removal Operations, et al.,

Respondents.

Civil No. 25-13744

Honorable Robert J. White

Magistrate Judge Curtis Ivy, Jr.

Respondents' Brief in Support of Their Response to Petition for a Writ of Habeas Corpus

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Issues Presented

I. Should the Court dismiss all respondents except the warden of the detention facility where petitioners are detained in this habeas suit?

II. Does the Court lack jurisdiction over petitioner's challenge to their detention under 8 U.S.C. § 1225(b)(1) when 8 U.S.C. § 1252(a)(2)(A)) precludes district courts from exercising jurisdiction over such claims and 8 U.S.C. § 1252(a)(2)(B) precludes district courts from reviewing the agency's discretionary revocation of petitioners' parole?

III. Are petitioners properly detained under 8 U.S.C. § 1225(b)(1) when they fall within the plain terms of the statute?

IV. Should the Court reject petitioners' due process claim when they have received all process due under the Constitution and the duration of their detention does not violate their procedural due process rights?

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Introduction

Petitioners are noncitizens who applied for entry to the United States at a port of entry without valid immigration documents. At the port, they were arrested, charged with inadmissibility and expedited removal, and paroled into the United States under a statute that explicitly did not grant them any valid immigration status while they pursued claims for asylum. The agency recently revoked petitioners' parole after petitioner S.J.Z.P was arrested for a traffic violation and, without valid parole, petitioners are subject to mandatory detention during their administrative asylum proceedings under 8 U.S.C. § 1225(b)(1).

In this suit, petitioners challenge their detention during their administrative asylum proceedings. The Court should first dismiss all respondents except the warden of the facility where petitioners are detained because the warden is the only proper respondent in this habeas suit. Second, the Court should find that it lacks jurisdiction to review the agency's discretionary revocation of petitioners' parole and its detention of petitioners under 8 U.S.C. § 1225(b)(1) because Congress specifically precluded judicial review of those issues in 8 U.S.C. § 1252(a)(2). Third, even if the Court considers the merits, it should find that plaintiffs are properly detained under § 1225(b)(1) because they fall within the scope of that provision under the plain terms of the statute. Finally, the Court should reject petitioners' due process argument because their detention does not violate their due process rights.

Background

Petitioners Evelin Josefina Perez and her minor son S.J.Z.P are citizens of Venezuela. (Exhibit 1 – Perez I-213 at 1; Exhibit 2 – SJZP I-213 at 1). On November 14, 2024, petitioners arrived at the San Ysidro Port of Entry to the United States and applied for admission. (Exhibit 1 – Perez I-213 at 1, 2) (noting that petitioners were "seeking immigration" and "applied for admission"). However, petitioners did not possess valid immigration entry documents at that time, so immigration officials charged petitioners with inadmissibility under 8 U.S.C. § 1182(a)(7) (a provision that renders noncitizens inadmissible if they do not possess valid entry documents). (*See* Exhibit 3 – Perez NTA at 1; Exhibit 4 – SJZP NTA at 1). After immigration officials charged petitioners with inadmissibility, they paroled petitioners into the United States while they pursued their claims for asylum in immigration court. (*See* Exhibit 1 – Perez I-213 at 3 (noting that petitioners were "paroled into the United States"); Exhibit 2 – SJZP I-213 at 3; Asylum App., ECF No. 1, PageID.42–44). Petitioners parole was set to expire in November 2026. (*See* Asylum App., ECF No. 1, PageID.43 (noting "DT" or humanitarian parole status until 11/2026).

On December 7, 2025, local police stopped petitioners for a minor traffic violation and, as a result, Border Patrol officials (who are not a party to this case) revoked petitioners' parole and detained them at that time. (Pet., ECF No. 1, PageID.2).

The following day, on December 8, 2025, petitioners filed this suit challenging their detention and seeking release. (*See* Pet., ECF No. 1, PageID.18–21). In this suit, petitioners named several respondents including the ICE Field Office Director in Detroit, the Secretary of Homeland Security, the Attorney General, and the Executive Office for Immigration Review. (*Id.* at PageID.7–8). In the caption, petitioners also included a placeholder for the warden of petitioners' detention facility because petitioners were in the process of being transferred when this suit was filed. (*See* Stip., ECF No. 7). After this suit was filed, officials transferred petitioners to a detention facility in Texas so that petitioners could be detained together. (*See* Email, ECF No. 4, PageID.76; Stip., ECF No. 7, PageID.99–100).

Petitioners are scheduled to appear in immigration court for a master calendar hearing during the first week of February, 2026. (Exhibit 5 – Perez NOH; Exhibit 6 – SJZP NOH).

Standard of Review

A district court may grant a writ of habeas corpus if a petitioner is in federal custody in violation of the Constitution or a federal law. 28 U.S.C. § 2241.

Argument

The Court should deny petitioners' request for a writ of habeas corpus. First, the Court should first dismiss all respondents except the warden of the facility where

petitioners are detained because the warden is the only proper respondent in this habeas suit. Second, the Court lacks subject matter jurisdiction to review petitioners' detention under 8 U.S.C. § 1225(b)(1). Second, even if the Court had jurisdiction to review the charge of expedited removal against petitioners, the Court should find that they are properly detained under § 1225(b)(1) under the plain terms of the statute. Finally, the Court should reject petitioners' due process argument because their detention, which has a definite endpoint in the near future, complies with due process.

I. The Court Should Dismiss All Respondents Except the Warden

"The federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is 'the person who has custody over [the petitioner].'" *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (citing 28 U.S.C. §§ 2242, 2243). "[T]here is generally only one proper respondent to a given prisoner's habeas petition" and "in habeas challenges to present physical confinement—'core challenges'—the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Id.* at 435.

Here, under a straightforward application of *Padilla*, the proper respondent is the warden of the facility where petitioners are detained. In this suit, petitioners challenge their current physical detention. (*See* Pet., ECF No. 1, PageID.18–21).

Therefore, they present a "core" habeas challenge and must name their immediate physical custodian as the respondent. *See Padilla*, 542 U.S. at 434–441. Their immediate physical custodian is the warden of the facility where they are detained. *See id.* Accordingly, only the warden is a proper respondent and the Court should dismiss all other respondents. *See also Aguilar v. Dunbar,* No. --- F.Supp.3d ----, 2025 WL 3281540, at *3 (E.D. Mich. Nov. 13, 2025).

II. The Court Lacks Jurisdiction Over Petitioners' Challenge

Federal courts have limited jurisdiction to review matters relating to § 1225(b)(1). *See Dep't of Homeland Sec. v. Thuraissigiam,* 591 U.S. 103, 108–15 (2020); 8 U.S.C. §§ 1252(a)(2)(A), (e). Section 1252(a)(2)(A), titled "Matters not subject to judicial review," provides that, with respect to "[r]eview relating to section 1225(b)(1)," "[n]otwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review. . . the application of such section to individual aliens, including the determination made under section 1225(b)(1)(B) of this title." 8 U.S.C. §§ 1252(a)(2)(A)(iii). Thus, § 1252 bars all challenges to the agency's application of § 1225(b)(1). *See id.*

Here, petitioners cannot establish the Court's jurisdiction to hear their challenge to their detention under § 1225(b)(1). The agency has applied § 1225(b)(1)

to petitioners and detained them under that provision. (*See, e.g.*, Exhibit 3 - Perez NTA at 1 (indicating that petitioners are charged with removal as "arriving aliens."). The plain terms of § 1252(a)(2) limits judicial review of the agency's application of the statute to them. *See* 8 U.S.C. § 1252(a)(2)(A)(iii). Therefore, the Court lacks jurisdiction over petitioner's habeas claim in this case.

The Court should not rely on district court cases exercising jurisdiction in excess of Congress's limits on judicial review. In two cases in this district, the Court has confronted the limitations on judicial review contained in the plain language of § 1252(a)(2) and created a judicial exception to the statute's jurisdictional limits to determine whether the § 1225(b)(1) "lawfully applies to" the petitioners because the Court did not trust the agency "to judge the bounds of its own statutory authority." *Am.-Arab Anti-Discrimination Comm. v. Ashcroft*, 272 F. Supp. 2d 650, 663 (E.D. Mich. 2003); *Salgado Bustos*, No. 25-13202, 2025 WL 3022294, at *3–4.

The Court should not follow these cases for several reasons. First, neither case addressed specifically addressed the relevant provision at issue in this case—§ 1252(a)(2)(A)(iii)—therefore, they have little persuasive value. *See Am.-Arab Anti-Discrimination Comm.*, 272 F. Supp. 2d at 661–63; *Salgado Bustos*, 2025 WL 3022294, at *3–4. Second, even if they were on point, courts cannot create equitable exceptions to jurisdictional limitations, so the Court should apply those cases cautiously because both explicitly relied on an equitable expansion of their

jurisdiction. *See Harrow v. Dep't of Def.*, 601 U.S. 480, 484 (2024) ("When Congress enacts a jurisdictional requirement, it mark[s] the bounds" of a court's power: . . . [s]o a court must enforce the rule even if no party has raised it . . . [a]nd a court must adhere to the rule even if equitable considerations would support excusing its violation.") (quotations and citations omitted). Third, even if the statute were not jurisdictional, these district court decisions conflict with the plain language of the statute and when a district court case, which is not precedential, conflicts with a statute, which is controlling, courts should disregard the unreliable district court precedent. *See Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004) ("It is well established that 'when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.'"); *Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) ("A decision of a federal district court judge is not binding precedent . . ."). Fourth, the premise of the exception—that the agency cannot be trusted with the power explicitly entrusted to its discretion by Congress—is unwarranted. There was no evidence in *Am.-Arab* or *Salgado Bustos* (and there is none in this case) that would be sufficient to overcome the presumption of regularity that attaches to the discretionary decisions of government officials. *See Parra-Morela v. Holder*, 504 F. App'x 461, 462 (6th Cir. 2012) (applying the presumption of regularity to immigration official's actions).

Accordingly, the Court should apply the plain language of § 1252 and hold that the agency's detention of petitioners under §1225(b)(1) is not subject to judicial review.

III. Petitioners Are Properly Detained Under 8 U.S.C. § 1225(b)(1)

Noncitizens subject to § 1225(b)(1) may be removed without further hearing unless they express a fear of persecution upon return to their home country. 8 U.S.C. § 1225(b)(1)(A)(i). If a noncitizen in expedited removal proceedings claims a fear of returning to his or her home country or seeks asylum, the noncitizen is referred for review of their asylum claim. 8 U.S.C. § 1225(b)(1)(A)(ii). If an initial review indicates that the noncitizen has a credible fear of returning to their home country, immigration officials will place the noncitizen in full removal proceedings for further consideration of his application for asylum, *see* 8 U.S.C. § 1225(b)(1)(B)(iii)(III); 8 C.F.R. § 208.30(f), and/or removal to another country, 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 208.16(f); *Thuraissigiam*, 591 U.S. at 110 n.5.

Here, the Court should conclude that petitioners are properly charged with removal under § 1225(b)(1). A court's "inquiry begins with the statutory text, and ends there as well if the text is unambiguous." *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). The text of § 1225(b)(1) unambiguously applies to petitioners and requires their detention during their asylum proceedings.

"If an immigration officer determines that an alien . . . who is arriving in the United States . . . is inadmissible under section . . . 1182(a)(7) of this title and the

alien indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B)." 8 U.S.C. § 1225(b)(1)(A)(ii). However, under the plain language of the statute, noncitizens "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). The Supreme Court has held that noncitizens detained under this provision are not entitled to bond hearings during their administrative removal proceedings and instead are subject to mandatory detention for the duration of their administrative proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018).

Here, petitioners are subject to mandatory detention under § 1225(b)(1). They are "arriving aliens" because they were initially apprehended at a port of entry. *See* 8 C.F.R. § 1.2 ("Arriving alien means an applicant for admission coming or attempting to come into the United States at a port-of-entry, . . ."); (Exhibit 1 – Perez I-213 at 1–2). They are inadmissible under 1182(a)(7) because they lacked valid immigration documents when they attempted to enter the United States. (*See id.* at 1–3). And they are in asylum proceedings. (*See* Asylum App., ECF No. 1, PageID.38–44). Accordingly, under the plain language of the statute and the Supreme Court's holding in *Jennings*, petitioners are subject to mandatory detention

during under § 1225(b)(1). *See* 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); *Jennings*, 583 U.S. at 302.

The fact that petitioners were temporarily paroled after their arrival does not remove them from the scope of § 1225(b)(1). In narrow circumstances, immigration officials have discretion to temporarily parole noncitizens who would otherwise be subject to mandatory detention like petitioners. *See* 8 U.S.C. § 1182(d)(5)(A). However, under the plain text of that statute, "such parole of such alien shall not be regarded as an admission of the alien" and "when the purposes of such parole shall. . . have been served the alien shall forthwith return or be returned to custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Id.* Similarly, "an arriving alien remains an arriving alien even if paroled pursuant to section [1182](d)(5) of the Act, and even after any such parole is terminated or revoked." 8 C.F.R. § 1.2. Accordingly, under the plain terms of the statute, petitioners' parole, which was revoked for cause when petitioner S.J.Z.P. was arrested by local police does not change the analysis. (*See* Pet., ECF No. 1, PageID.2).

To the extent that petitioners challenge the revocation of their parole, the Court would lack jurisdiction to hear such a claim. Under § 1252(a)(2), Congress has limited judicial review of immigration officials' discretionary decisions. *See* 8

U.S.C. § 1252(a)(2)(B)(ii). Congress granted immigration officials discretion to revoke a noncitizen's parole. *See* 8 U.S.C. § 1182(d)(5)(A) ("when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled . . ."). Therefore, the agency's decision to revoke petitioner's parole in this case is not subject to review. And, even if it were, the agency did not abuse its discretion when revoking petitioners' parole after local law enforcement officers detained petitioners and contacted the agency for a violation of civil law. (*See* Pet., ECF No. 1, PageID.2).

Petitioner's authority is distinguishable. First, petitioner relies on recent cases involving noncitizens detained under 8 U.S.C. § 1225(b)(2). (*See* Pet., ECF No. 1, PageID.19). However, petitioners are not detained under § 1225(b)(2). (*See* Exhibit 3 – Perez NTA at 1). Instead, they are detained under § 1225(b)(1), which applies to a different class of noncitizens who are detained under different circumstances and for different administrative proceedings. Compare 8 U.S.C. § 1225(b)(1) (applying to "arriving aliens") *with* § 1225(b)(2) (applying to all other "applicants for admission"). Therefore, cases interpreting § 1225(b)(2) are not relevant here.

Second, even if the Court found that petitioners cannot be detained under § 1225(b)(1), they would still be properly subject to mandatory detention under § 1225(b)(2) despite petitioners' authority because the § 1225(b)(2) case law cited by

petitioners relates to noncitizens detained under substantially different circumstances. For instance, in *Pizarro Reyes*, the Court found that the agency had improperly detained a noncitizen under § 1225(b)(2) because he had "lived in the United States for twenty years, never sought admission, and was not arrested when attempting to cross the border or pass through a port of entry illegally." *See Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025). Meanwhile, petitioners in this case did seek admission at a port of entry and were apprehended at the border while attempting to enter the United States. (*See* Exhibit 1 - Perez I-213 at 1–2). Accordingly, even if the Court found that petitioners were not subject to detention under § 1225(b)(1) and it applied the reasoning in the cases interpreting § 1225(b)(2) cited by petitioner, petitioners would still be subject to mandatory detention under § 1225(b)(2) based on the reasoning in the cases petitioners cite in support of their petition.

IV. Petitioners' Detention Complies with the Due Process Clause

Since 1892, the Supreme Court has consistently held that the process due under the constitution is coextensive with the administrative immigration procedures provided by Congress. *Thuraissigiam*, 591 U.S. at 138–40. In this case, Khogiani is charged with expedited removal, which provides several statutorily mandated levels of administrative review and limited judicial review. *See* 8 U.S.C. §§ 1225(b), 1252(e). The Supreme Court has held that this process satisfies the Due Process

Clause. *Thuraissigiam*, 591 U.S. at 138–40. And there is no dispute that Khogiani has taken advantage of the procedural protections available to him under the law. (*See* Exhibit 1 – Acree-Manuel Decl. ¶¶ 4–10). Therefore, Khogiani does not present a plausible due process claim to the extent that he argues that the expedited removal process itself does not provide him with sufficient procedural safeguards. *See Thuraissigiam*, 591 U.S. at 138–40.

Similarly, the Court should reject petitioners' argument that their detention violates their due process rights and that they are entitled to a bond hearing. The Supreme Court flatly rejected the argument that a noncitizen detained under § 1225(b)(1) is entitled to a bond hearing. *See Jennings*, 583 U.S. at 302. The Supreme Court has also rejected the argument that detention during administrative removal proceedings violates the due process clause because removal proceedings are not indefinite. *See Demore v. Kim*, 538 U.S. 510, 531, 123 S. Ct. 1708, 1721–22, 155 L. Ed. 2d 724 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); *see also Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (even when detention is potentially indefinite detention is presumptively constitutional for at least six months). Accordingly, petitioner's temporary detention during their asylum proceedings does not violate their due process rights.

Conclusion

Respondents respectfully requests that the Court deny petitioners' request for a writ of habeas corpus.

Respectfully submitted,

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Dated: January 5, 2026

Certificate of Service

I hereby certify that on January 5, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

/s/ Zak Toomey
Zak Toomey
Assistant U.S. Attorney