

TABLE OF CONTENTS

	Page(s)
TABLE OF AUTHORITIES	iii
INTRODUCTION.....	1
RELEVANT BACKGROUND.....	3
ARGUMENT	4
I. The Fifth Circuit held that § 1225(b)(2)(A) mandates detention of all applicants for admission.....	4
II. Procedural due process does not entitle Petitioners o a bond hearing to determine facts that are irrelevant to § 1225(b)(2)(A).....	4
A. Petitioner’s claim does not sound in procedural due process.....	5
B. Even if Petitioner was asserting a viable due process claim, it would be meritless	9
III. Petitioner does not have a substantive due process right to a bond hearing	11
IV. Petitioner cannot invoke habeas to challenge the conditions of his confinement	14
CONCLUSION.....	14

TABLE OF AUTHORITIES

Cases:	Page(s)
<i>Buenrostro-Mendez v. Bondi</i> , ---F.4th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026)	passim
<i>Connecticut Department of Pub. Safety v. Doe</i> , 538 U.S. 1 (2003)	2, 6, 7, 8
<i>Demore v. Kim</i> , 538 U.S. 510 (2003)	3, 11, 12, 13
<i>Department of State v. Muñoz</i> , 602 U.S. 899 (2024)	5, 11
<i>DHS v. Thuraissigiam</i> , 591 U.S. 103 (2020)	2, 9, 11
<i>Duarte v. City of Lewisville, Texas</i> , 858 F.3d 348 (5th Cir. 2017)	7
<i>Foster v. Prator</i> , 2022 WL 18456945 (W.D. LA. 9/22/22)	14
<i>Hernandez-Fernandez v. Lyons</i> , 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025)	1, 6, 8
<i>Jennings v. Rodriguez</i> , 583 U.S. 281 (2018)	1, 13
<i>Kaplan v. Tod</i> , 267 U.S. 228 (1925)	10, 11
<i>Landon v. Plasencia</i> , 459 U.S. 21 (1982)	9
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	5, 8, 9
<i>Michael H. v. Gerald D.</i> , 491 U.S. 110 (1989)	8
<i>Nelson v. Colorado</i> , 581 U.S. 128 (2017)	8
<i>Nishimura Ekiu v. United States</i> , 142 U.S. 651 (1892)	9, 10

Perez v. Zook,
3:20-CV-02092, 2022 WL 348664 (N.D. Tex. 2022).....14

Reno v. Flores,
507 U.S. 292 (1993) 5, 8, 11

Rice v. Gonzalez,
985 F.3d 1069 (5th Cir. 2021)14

Shaughnessy v. United States ex rel. Mezei,
345 U.S. 206 (1953)9

Washington v. Glucksberg,
521 U.S. 702 (1997) 2, 11

Wekesa v. U.S. Attorney,
2022 WL 17175818 (5th Cir. Nov. 22, 2022)7

Wong Wing v. United States,
163 U.S. 228 (1896)12

Zadvydas v. Davis,
533 U.S. 678 (2001) 4, 12

Statutes

8 U.S.C. § 1182(a)(6)(A)(i) 3

8 U.S.C. § 1182(a)(7)(A)(i) 3

8 U.S.C. §1225(a)(1)..... 1, 4, 8

8 U.S.C. §1225(a)(4)..... 13

8 U.S.C. §1225(b)(2)(A)..... passim

8 U.S.C. §1226(a)..... 1, 3

8 U.S.C. §1226(c).....7, 11, 12, 13

8 U.S.C. §1226(c)(2).....7

8 U.S.C. § 1225 11

8 U.S.C. § 1225(b)(2) 8, 11, 13, 14

8 U.S.C. § 1226 14

8 U.S.C. § 1229a 13

Regulations

62 Fed Reg. 1031213

INTRODUCTION

This Court has ordered Federal Respondents¹ to brief, “what process is due under the applicable statutes and regulations when re-detaining a previously bonded alien, paying special attention to the reasoning in *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).” ECF 43, Memorandum Order, p. 4. In this case, Petitioner was never subject to a bond, but as will be discussed below, was initially released on his own recognizance. Moreover, the Fifth Circuit’s decision in *Buenrostro-Mendez* forecloses Petitioner’s procedural due process challenge. In addition, Petitioner’s substantive due process claim also fails as discussed *infra*.

The Immigration and Nationality Act, as amended, provides that all aliens who are present within the United States and not admitted—deemed by statute to be “applicants for admission”—“shall be detained” pending their removal proceedings if they cannot show they are “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §1225(a)(1), (b)(2)(A). Detention is mandatory, so aliens are not entitled to bond hearings. *Jennings v. Rodriguez*, 583 U.S. 281, 297, 300 (2018).

Over the last several months, thousands of habeas petitions have been filed in district courts within this Circuit by aliens who are “applicants for admission” and are being detained under §1225(b)(2)(A) without bond hearings. Many district courts granted those petitions, holding that the aliens’ detentions were governed by the separate authority in 8 U.S.C. §1226(a), which permits bond hearings. The Fifth Circuit rejected the holdings of those decisions in *Buenrostro-Mendez v. Bondi*, --- F.4th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026), and held that “applicants for admission” are subject to detention under §1225(b)(2)(A) and so have no statutory right to a bond hearing. *Id.* at *1-10.

To the extent that Petitioner, who is indisputably detained under §1225(b)(2)(A), alleges a

¹ Federal Respondents, President Donald J. Trump, Attorney General Pamela Bondi, and the Executive Office of Immigration Review renew their request for dismissal from this action as they are not immediate custodians of Petitioner and do not have the ability to produce Petitioner before this Court. Therefore, they are not proper habeas respondents. ECF 39-1, p. 11-12.

violation of procedural due process to order his release or the Government to provide a bond hearing to assess whether he is a flight risk or dangerous, Petitioner's claim is foreclosed by *Buenrostro-Mendez*. There is no dispute, post-*Buenrostro-Mendez*, that Petitioner falls within the terms of §1225(b)(2)(A); he is an "applicant[] for admission" who failed to show that he is "clearly and beyond a doubt entitled to be admitted." No additional process is needed to resolve an uncontested—and incontestable—issue of fact. As the Supreme Court held, "Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme." *Connecticut Department of Pub. Safety v. Doe*, 538 U.S. 1, 9 (2003). But whether Petitioners are a flight risk or dangerous is irrelevant to the statutory scheme; thus, a bond hearing to assess those issues would be "a bootless exercise." *Id.* at 7. In the end, the only process due aliens who have never "been admitted into the country pursuant to law" is whatever process is "expressly conferred by Congress." *DHS v. Thuraissigiam*, 591 U.S. 103, 138 (2020).

In truth, Petitioner is not challenging the *procedures* available under the statute, but Congress's *substantive* determination that aliens covered by §1225(b)(2)(A) are not entitled to bond hearing. Petitioners' true claim thus sounds in *substantive* due process—*i.e.*, that the government cannot constitutionally detain them *notwithstanding* the fact that they are subject to mandatory detention by statute. But Petitioner cannot satisfy the standards for substantive due process claims. Nor could he: He cannot identify a fundamental right, so his substantive due process claim must fail so long as mandatory detention under §1225(b)(2)(A) is "rationally related to legitimate government interests." *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997). It plainly is. The Supreme Court has long "recognized [that] detention during deportation proceedings [i]s a constitutionally valid aspect of the deportation process," because "deportation proceedings 'would be vain if those accused could not be held in custody pending the inquiry into their true character.'" *Demore v. Kim*, 538 U.S. 510 (2003).

The upshot is that Petitioner's putative-procedural due process claims attack the *substance* of

Congress's policy choice to impose mandatory detention, rather than discretionary detention. This argument is foreclosed by *Buenrostro-Mendez*, and Petitioner's habeas petition should be dismissed.

RELEVANT BACKGROUND

The Petitioner is a Guinean national who entered the United States at an unknown place, and on an unknown date. On December 27, 2023, Petitioner arrived at the Sasabe, Arizona Port of Entry. See ECF 1-11, *Notice to Appear*, dated July 17, 2025; see also, Govt. Ex. C, *Notice to Appear*, dated December 29, 2023. Because he was present in the U.S. without being admitted or paroled, arriving at a time or place other than as designed by the Attorney General, Petitioner was found to be inadmissible. 8 U.S.C. § 1182(a)(6)(A)(i). Govt. Ex. C. Further, Petitioner did not allege a credible fear of returning to his home country at that time. Govt. Ex. C, p. 2. Petitioner was released on his own recognizance.² ³See, generally, Govt. Ex. D, Record of Deportable/Inadmissible Alien.

On May 30, 2025, DHS moved to dismiss Petitioner's removal proceedings "due to a change in circumstances related to the governments[sic] posture on prosecuting this case." Govt. Ex. D, p. 2. On that same date, Petitioner was issued a Notice and Order of Expedited Removal, as an inadmissible alien under 8 U.S.C. § 1182(a)(7)(A)(i)(I). See Govt. Ex. E, Notice and Order of Expedited Removal. Thereafter, Petitioner alleged and was found to have a credible fear of returning to his native country, and a second Notice to Appear was issued, charging Petitioner as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant not in possession of a valid entry document. ECF 1-11. On November 4, 2025, Petitioner was ordered removed to Guinea. ECF 39-2, Govt. Ex. A, Order of the IJ. Petitioner reserved his right to appeal and filed an appeal with the Bureau of Immigration Appeals (BIA) on December 2, 2025; therefore, his order of removal is not administratively final. ECF 39-3,

² Although requested, undersigned counsel has not received the paperwork related to this release as of the time of the filing of this response.

³ Contrary to Petitioner's assertion, there is no indication that Petitioner was detained under § 1226(a). ECF 1, ¶ 78.

Govt. Ex. B, BIA Appeal.

Petitioner is currently detained at the Winn Correctional Center in Winnfield, LA pending the conclusion of his removal proceedings under 8 U.S.C. § 1229a before an immigration court. ECF 1, ¶ 20.

ARGUMENT

I. The Fifth Circuit held that §1225(b)(2)(A) mandates detention of all applicants for admission.

In *Buenrostro-Mendez*, the Fifth Circuit Court held that aliens who are “applicants for admission”—like Petitioner—are “seeking admission” under §1225(b)(2)(A) and so are subject to mandatory detention under that provision. 2026 WL 323330, at *4-10. The Court explained that this interpretation was not only the best reading of the statute, but also “better honors [the] predominant goal in the enactment of IIRIRA” to “put aliens seeking admission lawfully on equal footing with those who entered without inspection.” *Id.* at *9. *Buenrostro-Mendez* thus foreclosed statutory challenges by “applicants for admission” to mandatory detention under §1225(b)(2)(A). In addition, the Court rejected the petitioners’ reliance on *Zadydas v. Davis*, 533 U.S. 678 (2001), because that case “ha[d] no direct application to aliens who are detained and being given due process during removal proceedings.” *Id.*

II. Procedural due process does not entitle Petitioners to a bond hearing to determine facts that are irrelevant to §1225(b)(2)(A).

There is no dispute that Petitioner falls within the scope of §1225(b)(2)(A). He is an “alien” who is “present in the United States” and “has not been admitted,” and so is an “applicant[] for admission.” 8 U.S.C. §1225(a)(1). Nor is there any dispute that Petitioner did not prove that he is “clearly and beyond a doubt entitled to be admitted.” *Id.* §1225(b)(2)(A). Therefore, as the Fifth Circuit held in *Buenrostro-Mendez*, aliens like Petitioner are subject to mandatory detention under

§1225(b)(2)(A). However, Petitioner’s due process challenge does not sound in procedural due process at all. And even if it did, it is meritless.

A. Petitioner’s claim does not sound in procedural due process.

The Constitution prohibits the federal government and States from “depriv[ing]” a “person” of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. The Supreme Court has recognized two types of due-process claims. See *Department of State v. Muñoz*, 602 U.S. 899, 910 (2024). A *procedural*-due-process claim takes as given the substantive determinations that would justify a deprivation of life, liberty, or property, but challenges the “adequacy of the[] procedures” for making those determinations. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). For example, the statute in *Mathews* made the availability of disability benefits turn on whether a person is “completely disabled” within the meaning of the statute. *Id.* at 323, 336. The procedural due process claim did not challenge the statute’s substantive criteria for who may receive benefits, but the adequacy of the procedures available to test whether a person fits within the criteria. *Id.* at 325-26. By contrast, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation “*at all*, no matter what process is provided.” *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Petitioner has not challenged the adequacy of the procedures for determining whether an alien is an “applicant for admission” as a factual matter, and thus subject to mandatory detention under §1225(b)(2)(A). Instead, the argument is that a determination that Petitioners are “applicants for admission” and “not clearly and beyond a doubt entitled to be admitted,” 8 U.S.C. §1225(b)(2)(A), is a constitutionally insufficient basis on which to justify the deprivation of their liberty (*i.e.*, detention). ECF 1, ¶ 79. In Petitioner’s view, that deprivation can be justified only by assessing whether the alien poses a flight risk or danger to the community—criteria *not* specified in statute. Petitioner’s claim is thus one that is *substantive*, not *procedural*, in nature.

To be sure, the *Hernandez-Fernandez* court held that due process requires additional procedures in the form of a bond hearing. *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 *10. But a bond hearing is merely the vehicle for making the *substantive* determination about flight risk or dangerousness that the district court believed to be necessary to justify detention, even though those factors are irrelevant under the statute. Because §1225(b)(2)(A) does not require such determinations, Petitioners' claim is a substantive-due-process challenge, not a procedural one.

Put differently, Congress decided as a substantive policy matter to impose mandatory detention on all applicants for admission, such as Petitioners. Whether those aliens are flight risks or dangerous is irrelevant under that policy choice. Due process does not require procedures to adjudicate immaterial facts. What Petitioner is attempting is to override Congress's substantive judgment that all applicants for admission must be detained regardless of whether they are dangerous or flight risks. *Procedural* due process can do no such thing.

This Supreme Court's decision in *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003), is definitive on this point. The statute in that case required sex offenders to register with the State so their information could be published on a sex-offender registry. *Id.* at 4-5. John Doe, who had previously been convicted of a sex offense, claimed that the statute violated his procedural-due-process rights by requiring him to register without a "hearing to determine whether" he was "currently dangerous." *Id.* at 4 (citation omitted).

The Court rejected Doe's claim. It explained that "due process does not require the opportunity to prove a fact that is not material to the State's statutory scheme," and "the fact that [Doe] seeks to prove—that he is not currently dangerous—[wa]s of no consequence under" the relevant statute, which required him to register based on his prior conviction alone. *Id.* at 7. So "[u]nless [Doe] c[ould] show that that *substantive* rule of law [wa]s defective (by conflicting with the Constitution), any hearing on current dangerousness [would be] a bootless exercise." *Id.* at 8.

Thus, any claim that Doe was entitled to a hearing to adjudicate facts a legislature had not made relevant “‘must ultimately be analyzed’ in terms of substantive, not procedural, due process.” *Id.* at 7-8.

The rule of *Connecticut Department of Public Safety* is simple and straightforward: “Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme.” 538 U.S. at 9. The Fifth Circuit applied that rule in *Duarte v. City of Lewisville, Texas*, 858 F.3d 348 (5th Cir. 2017), in a similar context. *See id.* (“procedural due process does not entitle the Duarte Family to a hearing to ‘establish a fact that is not material’ under the Ordinance” (quoting *Connecticut Department of Public Safety*, 538 U.S. at 7)).

The Fifth Circuit later applied that same rationale to reject a procedural due process challenge against mandatory detention under §1226(c) in *Wekesa v. U.S. Attorney*, No. 22-10260, 2022 WL 17175818 (5th Cir. Nov. 22, 2022). There, Wekesa filed a habeas petition, alleging that “his continued detention without an individualized bond hearing violates his due process rights.” *Id.* at *1. The Court rejected that claim. It explained that under §1226(c) “mandates detention of any alien falling within its scope” and allows release “‘only if the alien is released for witness-protection purposes.’” *Id.* And “[b]ecause Wekesa d[id] not meet the statutory requirements for release under Section 1226(c)(2),” this Court affirmed the district court’s denial of habeas petition. *Id.* In other words, because Wekesa indisputably was subject to detention under §1226(c), nothing he hoped to ascertain through a bond hearing would be “relevant under the statutory scheme.” *Conn. Dep’t of Pub. Safety*, 538 U.S. at 9.

Accordingly, Petitioner has no procedural due process right to a bond hearing on whether he is a flight risk or danger to the community. Individualized findings about flight risk and danger are irrelevant to §1225(b)(2), which subjects Petitioner to mandatory detention based on his

uncontested status as an “applicant[] for admission” who has not shown (and cannot show) he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §1225(a)(1), (b)(2)(A).

Here, there is no dispute that Petitioner falls within the terms of the statute as interpreted by *Buenrostro-Mendez*, *supra*. Therefore, as in *Connecticut Department of Public Safety*, any claim that Petitioner is entitled to a bond hearing “‘must ultimately be analyzed’ in terms of substantive, not procedural, due process.” 538 U.S. at 7-8; *see Flores*, 507 U.S. at 308 (holding that a challenge to a regulation on the ground that it failed to require a determination of a detainee’s “interests” was “‘just [a] ‘substantive due process’ argument recast in ‘procedural due process’ terms”); *Michael H. v. Gerald D.*, 491 U.S. 110, 119, 121 (1989) (plurality opinion) (treating a request for an “evidentiary hearing” on an issue that the statutory scheme deemed “*irrelevant*” as a “substantive due process” claim).

In this context, any reliance upon *Mathews*, as in *Hernandez-Fernandez*, is therefore erroneous. *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 *7-10. *Mathews* articulates a three-part balancing test for analyzing certain “procedural due process” claims. *Nelson v. Colorado*, 581 U.S. 128, 134 (2017). But that test has no application in the realm of substantive due process. After all, *Mathews* takes the “nature of the relevant inquiry” as given, 424 U.S. at 343, and asks only whether the “procedures” for conducting that factual inquiry are adequate, *id.* at 335. Here, in stark contrast, Petitioner contends that the Constitution requires a different factual inquiry altogether—*i.e.*, one that evaluates factors that Congress chose not to make relevant to whether to the detention issue. Because that is a *substantive*, rather than procedural, due-process challenge to the statute, applying *Mathews* as the governing test is inappropriate.

B. Even if Petitioner was asserting a viable due process claim, it would be meritless.

Even if Petitioner was asserting a procedural due process claim, any such claim contradicts the Supreme Court’s longstanding precedent regarding the due process rights of aliens who were never admitted to this country.

For more than a century, the rule has been that for aliens who have never “been admitted into the country pursuant to law, the decisions of executive and administrative officers, acting within the powers expressly conferred by Congress, are due process of law.” *DHS v. Thuraissigiam*, 591 U.S. 103, 138 (2020) (quoting *Nishimura Ekin v. United States*, 142 U.S. 651, 660 (1892)).⁴ This is true even of aliens “paroled elsewhere in the country for years pending removal” who have developed significant ties to the country. *Thuraissigiam*, 591 U.S. at 139 (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). They are “‘treated’ for due process purposes ‘as if stopped at the border.’” *Id.* This includes those that successfully evade inspection at the border: “[A]n alien who tries to enter the country illegally is treated as an ‘applicant for admission’”—*i.e.*, treated the same as if they lawfully presented themselves at a port of entry or were caught at the border. *Id.* at 140.

The Supreme Court has elsewhere made clear that *lawful admission*—not physical entry—is the touchstone for when aliens gain due process interests that could potentially require procedures beyond what Congress has provided (and thus all that the due process clause requires under the entry fiction doctrine). For example, in *Landon v. Plasencia*, 459 U.S. 21 (1982), the Court observed that only “*once an alien gains admission to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[.]*” *Id.* at 32 (emphasis added). “Th[is]

⁴ Although *Thuraissigiam* “was apprehended within 25 yards” of the border, the Supreme Court’s reasoning in that case was not so limited. Rather, the Court emphasized the broader principle that “[a]n alien who tries to enter the country illegally is treated as an ‘applicant for admission,’” and “aliens who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are ‘treated’ for due process purposes ‘as if stopped at the border[.]” 591 U.S. at 139-40 (emphasis added).

rule,” the Court explained, “rests on [the] fundamental proposition” that “the power to admit or exclude aliens is a sovereign prerogative,” and “the Constitution gives the political department of the government plenary authority to decide which aliens to admit.” *Id.* at 32; *see also Nishimura Ekin*, 142 U.S. at 659.

This understanding that additional procedures can only be required for those who have been lawfully *admitted* (and not even lawfully *paroled*) was confirmed years before in *Kaplan v. Tod*, 267 U.S. 228 (1925). There, the Supreme Court held that a child lawfully *paroled* into the care of relatives *for nearly nine years*—but never lawfully *admitted*—must be “regarded as stopped at the boundary line” and “had gained no foothold in the United States.” *Id.* at 230-31. That was so even though the child had been living in the interior of the country with her naturalized-citizen father and thus was presumably forming connections to the United States. *Id.* at 229. Still, because she had never been lawfully admitted, the Due Process Clause did not require *any* additional procedures beyond what Congress provided. *Id.* at 229-30.

The same result should follow here. Unlike the petitioner in *Kaplan*—who was lawfully *paroled* into the United States—nothing about Petitioner’s presence here has ever been lawful. And his presence from that moment to the present day stands in defiance of federal immigration law.

Indeed, Petitioner’s due process claim would constitutionalize the same perverse dynamic that this Court rejected as a statutory matter in *Buenrostro-Mendez*. As the Fifth Circuit recognized, by enacting §1225(b)(2)(A), Congress sought to eliminate the preferential treatment of aliens who violate the country’s immigration laws. 2026 WL 323330, at *9. Under Petitioner’s rationale, aliens who violate federal law would enjoy *greater* constitutional protections than those who comply with it. Nothing in law allows aliens to adversely possess additional due process rights by virtue of unlawfully entering the United States — especially when the nine years of *lawful* presence in *Kaplan* did not suffice.

Petitioner's theory of procedural due process is incompatible with this longstanding precedent. Petitioner received (and is receiving) all the process due to him under the statute; that is "due process of law." *Thuraissigiam*, 591 U.S. at 138.

III. Petitioner does not have a substantive due process right to a bond hearing.

Petitioner's *substantive* due process claim does not fare any better. In contrast to a *procedural* due process claim, which takes as a given the substantive determinations that would justify a deprivation of life, liberty, or property, a *substantive* due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation "at all, no matter what process is provided." *Flores*, 507 U.S. at 302.

Petitioners' detention without a bond hearing during the pendency of their removal proceedings does not implicate any fundamental rights. "[P]rior to 1907 there was no provision permitting bail for *any* aliens during the pendency of their deportation proceedings," *Demore*, 538 U.S. at 523 n.7, so such a right cannot possibly be "objectively, deeply rooted in this Nation's history and tradition." *Muñoz*, 602 U.S. at 910 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997)). Accordingly, rational-basis review is the appropriate standard for analyzing respondents' substantive-due-process claims. *Glucksberg*, 521 U.S. at 728. Under that standard, detention under §1225(b)(2) is constitutionally permissible if it is "rationally related to legitimate government interests." *Id.*

Section 1225 easily clears the rational basis bar. In *Demore*, the Supreme Court considered a "substantive due process" challenge to detention under §1226(c). 538 U.S. at 515. Like Petitioner here, Hyung Joon Kim "argued that his detention under § 1226(c) violated due process because the [government] had made no determination that he posed either a danger to society or a flight risk." *Id.* at 514. The Supreme Court rejected that claim. It explained that its cases had long "recognized detention during deportation proceedings as a constitutionally valid aspect of the

deportation process,” because “deportation proceedings ‘would be vain if those accused could not be held in custody pending the inquiry into their true character.’” *Id.* at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); *see also id.* at 526 (reiterating the “Court’s longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings”). Therefore, because “[d]etention during removal proceedings is a constitutionally permissible part of that process,” the Supreme Court held that the aliens substantive due process “claim must fail.” *Id.* at 531.

In reaching its holding, *Demore* distinguished its prior decision in *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), which addressed the constitutionality of *indefinite* detention after a final order of removal under a different provision of the INA. *Id.* at 682, 690, 692. First, the aliens challenging their detention in *Zadvydas* were aliens for whom removal was “no longer practically attainable.” *Id.* at 690. Under the circumstances, the Court explained, “the detention ... did not serve its purported immigration purpose.” *Id.* at 690. By contrast, §1226(c) applies to aliens “pending their removal proceedings,” and so “necessarily serves the purpose of preventing” those aliens “from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed.” *Demore*, 538 U.S. at 528. As *Demore* noted, Congress “had before it evidence suggesting that permitting discretionary release of aliens pending their removal hearings” would result in “large numbers” of aliens “skipping their hearings and remaining at large in the United States unlawfully.” *Id.* at 528.

Second, and in the same vein, *Demore* emphasized that “the period of detention at issue in *Zadvydas* was ‘indefinite’ and ‘potentially permanent,’” whereas detention under §1226(c) pending removal proceedings “is of a much shorter duration” and “ha[s] a definite termination point.” *Demore*, 538 U.S. at 530.

The same reasons for upholding mandatory detention under §1226(c) apply to §1225(b)(2)(A). Petitioner does not allege that his ultimate removal is “unattainable,” so detention under §1225(b)(2)(A) serves the same legitimate interest recognized by *Demore*—preventing aliens “from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed.” 538 U.S. at 528. As *Buenrostro-Mendez* recognized, “the Department of Justice Inspector General found in 1997 that ‘when aliens are released from custody, nearly 90 percent abscond and are not removed from the United States,’ and “[t]hat situation exists today at a much larger scale.” 2026 WL 323330, at *9 (quoting 62 Fed Reg. 10312, 10323 (Mar. 6, 1997)).

Nor is detention under §1225(b)(2)(A) “indefinite” or “permanent.” *Demore*, 538 U.S. at 530. As with §1226(c), detention under §1225(b)(2)(A) lasts only for the duration of “a proceeding under section 1229a of this title.” 8 U.S.C. §1225(b)(2)(A); see *Jennings*, 583 U.S. at 302-03. Even then, nothing *requires* aliens to contest removal; to the contrary, most or all can avoid detention by withdrawing their objections to removal and voluntarily departing from the United States. See 8 U.S.C. §1225(a)(4) (authorizing aliens “applying for admission” to “depart immediately from the United States”).

In short, removal remains a practically attainable goal, and while the proceedings remain pending, Petitioner’s detention under §1225(b)(2) bears a reasonable relation to the legitimate purposes that this Court identified in *Demore*. Section 1225(b)(2)(A) is therefore constitutional as applied to Petitioner.

IV. Petitioner cannot invoke habeas to challenge the conditions of his confinement.⁵

⁵ Federal Respondents have been ordered to file an affidavit regarding the status of Petitioner’s medical condition and medical care. Undersigned counsel has requested this information, and Federal Respondents intend to comply with this Court’s Order. ECF 43, p. 4.

Federal Respondents re-urge and incorporate herein their argument that a petition for writ of habeas corpus is not a proper vehicle for Petitioner's challenge to his conditions of confinement, specifically, his medical treatment within the detention facility. ECF 39-1, pp. 43-44; *see also, Foster v. Prator*, 5:22-CV-01940, 2022 WL 18456945 (W.D. LA. 9/22/22), report and recommendation adopted, 2023 WL 373884 (W.D. La. 2023) (*citing Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021), *cert. denied*, 142 S. Ct. 216 (2021)); *Perez v. Zook*, 3:20-CV-02092, 2022 WL 348664, at *1 (N.D. Tex. 2022), report and recommendation adopted, 2022 WL 347608 (N.D. Tex. 2022).

CONCLUSION

For the reasons explained above, Petitioner's petition for writ of habeas corpus should be denied and Petitioner's detention should remain undisturbed for the duration of his removal proceedings. As an inadmissible alien seeking admission, he is subject to mandatory detention for the duration of his removal proceedings pursuant to 8 U.S.C. § 1225(b)(2) and is therefore not entitled to a bond hearing under § 1226. Nor is his detention violative of procedural or substantive due process. The instant habeas petition should be denied and dismissed with prejudice.

Respectfully submitted,
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