

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-04069-PAB

WILSON RENE GARCIA-PEREZ,

Petitioner,

v.

ROBERT HAGAN, as Field Office Director of Enforcement and Removal Operations, Denver
Field Office, Immigration and Customs Enforcement,
TODD LYONS, as Acting Director of Immigration and Customs Enforcement,
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,
JUAN BALTAZAR, as Warden of Denver Contract Detention Facility,
KRISTI NOEM, as Secretary, U.S. Department of Homeland Security,
U.S. DEPARTMENT OF HOMELAND SECURITY,
PAMELA BONDI, as U.S. Attorney General,
SIRCE OWEN, as Acting Director of the Executive Office for Immigration Review, and
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 6)

The Petition for Writ of Habeas Corpus, ECF No. 1, should be denied. Petitioner is a noncitizen subject to mandatory detention during his removal proceedings because he meets the statutory definition of an “applicant for admission,” and, by virtue of that status, he is deemed to be seeking admission to the United States. Due process does not require a bond hearing before the removal proceedings are final.

BACKGROUND

A. Legal background

In the Immigration and Nationality Act (“INA”), Congress established rules governing

when certain noncitizens may be detained or removed. As relevant here, 8 U.S.C. § 1225 governs the processes for the detention and removal of noncitizens who are “applicants for admission.”

The scope of § 1225 was analyzed by the Supreme Court in *Jennings*. At issue there was whether certain noncitizens are entitled to periodic bond hearings during prolonged detention. Because in that case, as in this one, “[t]he primary issue [wa]s the proper interpretation of §§ 1225(b), 1226(a), and 1226(c),” *Jennings*, 583 U.S. at 289, the Court’s explanation of § 1225’s scope should guide the Court’s analysis here. The key points from *Jennings* are set forth below.

1. Section 1225 applies to “applicants for admission,” a term of art that includes aliens who are unlawfully present but were never admitted.

Section 1225 provides, in relevant part, that “[a]n alien present in the United States who has not been admitted . . . shall be *deemed* for purposes of this chapter [to be] an applicant for admission.” 8 U.S.C. § 1225(a)(1) (emphasis added). The *Jennings* Court explained that § 1225 applies to “applicants for admission,” and that this term includes *both* (a) an “arriving alien,” as well as (b) an individual who is *present* in this country but has not been “admitted” through a lawful entry at a port of entry. 583 U.S. at 287.¹

The *Jennings* Court recognized that the term “applicant for admission” is a term of art. “Under . . . 8 U.S.C. § 1225, an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is *treated as* ‘an applicant for admission.’” *Id.* (emphasis added). In other words, noncitizens present in the country and but never lawfully admitted are “treated as”—under § 1225(a)(1), they are “deemed to be”—“applicants for admission.”

¹ The INA defines “admission” to mean “lawful entry” after “inspection and authorization by an immigration officer—such as may occur at a port of entry. *Id.* § 1101(a)(13)(A) (defining “admission” and “admitted” as “the lawful entry of the alien into the United States *after inspection and authorization* by an immigration officer.”) (emphasis added).

2. “Applicants for admission” are not limited to noncitizens who have submitted an immigration application.

The *Jennings* Court’s discussion of “applicant for admission” as a term of art made clear that the term “applicant for admission” is not limited to noncitizens who have submitted some type of immigration application. Rather, as the Court explained, there are two criteria to be an applicant for admission: “an alien who . . . [1] ‘is present’ in this country but [2] ‘has not been admitted’ is *treated as* ‘an applicant for admission.’” *Id.* (emphasis added, marks added).

The Court commented later in its opinion that “[i]n sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2).” *Id.* at 289. But the Court’s reference to “aliens seeking admission” did not add a new “seeking admission” criterion that must exist for a noncitizen to fall within § 1225. Rather, this reference reflected the Court’s prior explanation that noncitizens who fall within §§ 1225(b)(1) and (b)(2) are, as a matter of law, “treated as” “applicants for admission.” *Id.* at 287.

Indeed, § 1225 elsewhere recognizes that the *status* of being an applicant for admission is one way that a noncitizen may be “seeking admission.” It states, “All aliens . . . who are applicants for admission *or otherwise seeking admission* . . . shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). Section 1225 thus confirms that a noncitizen can seek admission simply by meeting the definition of an applicant for admission *or* can “otherwise” seek admission by directly applying for admission.

3. Section 1225(b) applies to *all* applicants for admission, not just arriving aliens or those who unlawfully entered the United States recently.

The *Jennings* Court’s discussion of § 1225’s scope indicates that “applicants for admission” does not *exclude* individuals who entered the United States without inspection.

The Court explained that the *first* subsection of § 1225(b)—§ 1225(b)(1)—applies to two subcategories of applicants for admission. One subcategory is certain arriving noncitizens: those who have been “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Jennings*, 583 U.S. at 287 (citing § 1225(b)(1)(A)(i)). Another subcategory is certain noncitizens who are designated by the Attorney General in their discretion and who are unlawfully present without being admitted and also are recent arrivals, *i.e.*, who have “not been admitted or paroled into the United States, and . . . ha[ve] not affirmatively shown, to . . . ha[ve] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility” *See Jennings*, 583 U.S. at 287; § 1225(b)(1)(A)(iii). Noncitizens in those two subcategories are subject to a process known as “expedited removal.” *Jennings*, 583 U.S. at 287 (“Aliens covered by § 1225(b)(1) are normally ordered removed ‘without further hearing or review’ pursuant to an expedited removal process.” (quoting 8 U.S.C. § 1225(b)(1)(A)(i))).

The Court then explained that *all* applicants for admission who fall outside those narrow two subcategories in § 1225(b)(1) are covered by the *second* subsection of § 1225(b)—*i.e.*, § 1225(b)(2). It described § 1225(b)(2) as a “*catchall* provision that applies to *all* applicants for admission not covered by § 1225(b)(1).” *Jennings*, 583 U.S. at 287 (emphasis added).

Thus, a noncitizen who meets the general definition of applicant for admission (such as an individual who is unlawfully present and was not admitted) but does not fall within the two § 1225(b)(1) subcategories described above is still an “applicant for admission” who falls under the “catchall” provision of § 1225(b)(2).

4. In § 1225, Congress did not grant applicants for admission a right to a bond hearing.

The *Jennings* Court recognized that § 1225 does not provide a bond hearing for noncitizens detained under that provision. It explained that Congress has provided that aliens covered by § 1225(b)(2) generally “shall be detained” during their removal proceedings, with narrow exceptions. *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1225(b)(2)(A)). Under § 1225(b)(2)(A), all other applicants for admission who an immigration officer determines are “not clearly and beyond a doubt entitled to be admitted” shall be detained for removal proceedings under 8 U.S.C. § 1229a.

In contrast, the *Jennings* Court recognized that a different statutory provision—§ 1226(a)—governs the detention of other noncitizens, including those who *had* been “admitted.” As the Court explained in *Jennings*,

Even once inside the United States, aliens do not have an absolute right to remain here. For example, an alien present in the country may still be removed if he or she falls “within one or more . . . classes of deportable aliens.” § 1227(a). That includes aliens who were inadmissible at the time of entry or who have been convicted of certain criminal offenses *since admission*. See §§ 1227(a)(1), (2).

583 U.S. at 288 (emphasis added). Thus, § 1226(a) extends to noncitizens who were admitted.

The Court did *not* suggest that § 1226(a) governs the detention of noncitizens who are covered by § 1225(b)(2). Rather, the Court appeared to recognize that these *two* provisions—1225(b)(2) and 1226(a)—authorize detention for *different* sets of individuals: the detention of noncitizens covered by § 1225 is authorized by § 1225, and *other* individuals in the country not covered by § 1225 may be detained under § 1226:

U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).

See 583 U.S. at 289. In distinguishing between these detention authorities, the Court did *not*

suggest that the detention of noncitizens subject to § 1225 (where Congress has not authorized bond) should be governed by § 1226(a)—where Congress *has* expressly authorized bond.

B. Factual background

Petitioner has not been inspected and admitted to the United States and thus is being treated as an applicant for admission.

Petitioner, a native and citizen of Guatemala, entered the United States without inspection or admission at an unknown location and date. Ex. A, Decl. of John Mansur, ¶¶ 4-5. He has never been admitted to, or paroled into, the United States. *Id.* ¶ 6. He encountered U.S. Customs and Border Patrol on August 2, 2021, at or near Sasabe, Arizona. *Id.* ¶ 7. Petitioner was 14 years old and unaccompanied. *Id.* Petitioner was detained in juvenile housing until he was released to his father on August 30, 2021, pursuant to Section 462 of the Homeland Security Act of 2002 and Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which govern the detention of unaccompanied noncitizen children. Ex. A ¶ 9. At that time, DHS did not formally initiate removal proceedings against Petitioner. *Id.* ¶ 8.

In 2025, after Petitioner turned 18 years old, DHS commenced removal proceedings against him. *Id.* ¶ 11. On October 1, 2025, U.S. Immigration and Customs Enforcement (“ICE”) sent a Form G-56, Call-In Letter to Petitioner, directing him to report to the Enforcement and Removal Operations Denver Field Office. *Id.* ¶ 10. Petitioner reported to the Denver Field Office on November 22, 2025, at which time ICE officers served Petitioner with a Notice to Appear (“NTA”). *Id.* ¶ 11. The NTA initiated removal proceedings under 8 U.S.C. § 1229a and charged Petitioner with being deportable from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (alien present in the United States without being admitted or paroled, or who arrives in the United

States at any time or place other than as designated). Ex. A ¶ 11. ICE arrested and detained Petitioner under 8 U.S.C. § 1225(b) pending resolution of removal proceedings. Ex. A ¶¶ 11-12. Petitioner is detained at the ICE contract detention facility in Aurora, Colorado. *Id.* ¶ 20.

Petitioner and his attorney (who is representing him in custody and bond hearings only) appeared before an Immigration Judge (“IJ”) on December 11, 2025, for a custody redetermination hearing. *Id.* ¶ 16. The IJ concluded that it lacks jurisdiction to redetermine Petitioner’s custody status. *Id.*

Petitioner appeared before the IJ for his initial hearing in removal proceedings on December 8, 2025. *Id.* ¶ 15. The IJ advised Petitioner of his rights and responsibilities in removal proceedings. *Id.* Petitioner requested additional time to hire an attorney, which the IJ granted. *Id.* On December 29, 2025, Petitioner appeared before the IJ for a master calendar hearing in removal proceedings. *Id.* ¶ 17. Petitioner requested additional time to hire an attorney, which the IJ granted. *Id.* Petitioner’s next master calendar hearing is on January 16, 2026. *Id.* ¶ 19.

Petitioner filed this action on December 18, 2025, arguing that he is not subject to § 1225 (which provides for mandatory detention), but rather is subject to § 1226 (which allows for a bond hearing). *See generally* ECF No. 1. He contends that his detention under § 1225 without bond violates the INA and due process. ECF No. 1 ¶¶ 39-45. He seeks immediate release or a bond hearing under § 1226(a) within seven days of the Court’s Order. *Id.* at 8 (prayer for relief).

ARGUMENT

I. Petitioner’s statutory challenge fails because he is subject to § 1225(b)(2)(A).

As explained above, § 1225(b)(2) applies to “applicants for admission” like Petitioner, who entered without inspection and have been present in the United States for more than two

years. Petitioner is present in the United States but has not been “admitted”—*i.e.*, he has not made a “lawful entry. . . after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A); Ex. A ¶ 6. Because Petitioner does not argue that he is “clearly and beyond a doubt entitled to be admitted,” his detention without bond is authorized by § 1225(b)(2)(A).

Petitioner argues that § 1225 only applies to persons who are “apprehended at the border” and determined to be inadmissible, while § 1226 applies to individuals “apprehend[e]d inside the United States.” *See* ECF No. 1 ¶¶ 34-35. Petitioner contends that he is detained under § 1226 because he was released into the United States and, several years later, detained pending removal proceedings. *See id.* ¶¶ 36-37. But that reading of §§ 1225 and 1226 does not comport with the statute’s text or make sense in the context of the whole section.

A. The INA supports detention without bond under § 1225.

The text of § 1225. As the *Jennings* Court explained, § 1225 applies to “applicants for admission,” a term of art encompassing *both* those just arriving in the United States *and* those who entered without inspection. For example, § 1225(b)(1)(A)(i) is not limited to noncitizens “arriving in the United States” who are rendered inadmissible for the specified reasons (*i.e.*, misrepresentation or lack of a valid entry document). Instead, § 1225(b)(1)(A)(i) also applies, through its reference to § 1225(b)(1)(A)(iii), to some noncitizens who have *already* been residing in the United States and are inadmissible for the same reasons—that is, applicants for admission who have “not been admitted or paroled” and have not “affirmatively shown, to the satisfaction of an immigration officer, that [they] ha[ve] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.” 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

Petitioner's argument also disregards that § 1225(b)(2) is a catchall that is broader than § 1225(b)(1). As explained above, the Supreme Court expressly recognized that § 1225(b)(2), which refers to a "broader" category of noncitizens than those described in § 1225(b)(1), applies to all "applicants for admission" who do not fall within § 1225(b)(1). The Court stated that § 1225(b)(2) is a "catchall provision that applies to *all applicants for admission* not covered by § 1225(b)(1)." *Jennings*, 583 U.S. at 287 (emphasis added). Accordingly, § 1225(b)(2) applies *both* to applicants for admission just arriving at the border who do not fall within Section 1225(b)(1)(A)(i) *and* to applicants for admission who have been physically present in the United States but are not covered by § 1225(b)(1)(A)(iii)(II).

Petitioner highlights the phrase "seeking admission" in § 1225(b)(2)(A) to argue that it mandates detention only for "arriving non-citizens apprehended at the border" who are determined to be "inadmissible." ECF No. 1 ¶ 35. But that is incorrect. As explained above, the Court's reference in *Jennings* to "aliens seeking admission" did not limit the reach of § 1225 to only those noncitizens who have applied for admission at the border. Nor does the statute suggest such a limitation. Section 1225(b)(1) contains no "seeking admission" language. Its detention provision applies, in the Attorney General's discretion, even to some noncitizens who are not "arriving" at the time of their inspection by an immigration officer. *See* 8 U.S.C. § 1225(b)(1)(A)(i) (applying to an "alien . . . who is arriving in the United States *or* is described in clause (iii)" (emphasis added)); *id.* § 1226(b)(1)(A)(iii) (describing a noncitizen "who has not affirmatively shown" that they have "been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility").

Indeed, § 1225 elsewhere recognizes that the *status* of being an applicant for admission is

one way that a noncitizen may be “seeking admission.” It states: “All aliens . . . who are applicants for admission *or otherwise seeking admission* . . . shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). Section 1225 thus confirms that a noncitizen can seek admission simply by meeting the definition of an applicant for admission *or* can “otherwise” seek admission by directly applying for admission.

In short, the Court in *Jennings* confirmed that all noncitizens who are “applicants for admission” are “seeking admission” by virtue of that status. Petitioner therefore remains subject to § 1225(b)(2)(A) detention even though he is not a recent arrival or detained at a port of entry.

The text of § 1226. Petitioner argues that § 1225(b)(2)(A) does not apply to him because § 1226(a) should. *See* ECF No. 1 ¶¶ 37, 40. He urges that § 1226 “governs the detention of individuals apprehen[ed] inside the United States and placed in removal proceedings.” *Id.* ¶ 34.

Petitioner’s argument contradicts normal rules of statutory interpretation. Section 1226(a)’s general detention authority, which permits the issuance of warrants to detain noncitizens for their removal proceedings, must be read alongside § 1225, which *specifically* addresses the detention of applicants for admission. And § 1226 does not displace the more specific provisions in § 1225 governing the detention of applicants for admission. Where “there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one.” *Guidry v. Sheet Metal Workers Nat. Pension Fund*, 493 U.S. 365, 375 (1990). Here, § 1225 is narrower than § 1226. It applies only to “applicants for admission,” which includes noncitizens present in the United States who have not been admitted. *See* 8 U.S.C. § 1225(a)(1).

To be sure, § 1226(c)(1)(E) mandates detention for a narrow category of noncitizens who entered the country without inspection: those who both entered without inspection and were later

arrested for, committed, or have admitted to committing one of a list of enumerated crimes. It requires DHS to take such noncitizens into custody after their release from criminal custody. *See Nielsen v. Preap*, 586 U.S. 392, 414-15 (2019) (explaining that § 1226(c)(1)’s “when released” clause clarifies that DHS custody begins “upon release from criminal custody,” not before, and that it “exhort[s] [DHS] to act quickly”). But the fact that § 1226(c)(1)(E) provides rules for detaining a category of noncitizens who entered without inspection and then had criminal-related conduct does not show that § 1225(b)(2)(A) does not still apply to other such noncitizens who entered without inspection.

Put differently, it is true that for a certain narrow subset of noncitizens—those who entered without inspection and then committed (or may have committed) certain crimes—Congress has now mandated their detention in two separate provisions, both § 1225(b)(2)(A) (based on their entry without inspection) and § 1226(c)(1)(E) (also based on their criminal-related conduct). But any potential redundancy in requiring mandatory detention for that subset of noncitizens subject to § 1226(c)(1)(E) does not affect § 1225(b)(2)(A)’s applicability to other noncitizens who entered without inspection. “[R]edundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication.” *Barton v. Barr*, 590 U.S. 222, 239 (2020). “Redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text.” *Id.* And “[s]ometimes the better overall reading of the statute contains some redundancy.” *Id.* (internal quotation marks omitted). The Court should not read § 1226(c) to require courts to ignore the express scope of § 1225.

Nor did Congress signal that courts should ignore the existing scope (and detention provisions) of § 1225 when it enacted the Laken Riley Act. That Act added § 1226(c)(1)(E), but did not alter § 1225(b)(2)(A). *See* PL No. 119-1, 139 Stat. 3 (2025). There is no indication that in modifying § 1226 through that Act, Congress intended, without ever saying so, to displace the authority in a separate provision—§ 1225(b)(2)(A)—to detain other applicants for admission.

B. Petitioner’s previous release into his father’s custody does not preclude his detention under § 1225.

Petitioner’s release into his father’s custody in 2021, when he was a minor, does not otherwise preclude his current detention under § 1225. Petitioner argues that he was “initially apprehended at the border in 2021,” at which time he “would have been subject to the provisions of 8 U.S.C. § 1225” but he was “released into the United States and to the custody of his father.” ECF No. 1 ¶ 36. Petitioner seems to allege that this may constitute some form of “admission” into the United States, thus taking Petitioner outside the scope of § 1225(b). *See id. Id.* ¶ 37. But that argument is both factually and legally incorrect.

First, Petitioner did not, as the Petition alleges, “present[] himself at the United States border” and *then* secure “release” into the United States. *See id.* ¶¶ 2, 36. Petitioner has never been admitted or paroled into the United States. Ex. A ¶ 6. He encountered CBP on August 2, 2021, *after* he had already entered the United States without inspection. *Id.* ¶ 7. Thus, he has never been “admitted” into the United States—*i.e.*, he has not made a “lawful entry. . . after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A).

Second, Petitioner’s previous release into his father’s custody does not preclude his current detention under § 1225. Petitioner was released into his father’s custody pursuant to Section 462 of the Homeland Security Act of 2002, codified at 6 U.S.C. § 279, and Section 235

of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, codified at 8 U.S.C. § 1232. As relevant here, 6 U.S.C. § 279 provides that the Director of the Office of Refugee Resettlement of the Department of Health and Human Services shall be responsible for “coordinating and implementing the care and placement of unaccompanied [noncitizen] children who are in Federal custody by reason of their immigration status.” 6 U.S.C. § 279(a), (b)(1)(A). 8 U.S.C. § 1232 further requires that “an unaccompanied [noncitizen] child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A)

Here, that resulted in Petitioner being released into his father’s custody in the United States. Ex. A ¶ 9. That release does not mean that Petitioner was “admitted” into the United States—Petitioner had already illegally entered the United States when he was detained by CBP. *Id.* ¶¶ 5-7. And Petitioner—who is now an adult—does not contend that he is clearly and beyond a doubt entitled to be admitted. Thus, Petitioner’s presence in the United States due to his release into his father’s custody does not preclude his current detention under § 1225(b)(2)(A).

II. Petitioner has not shown that due process entitles him to a bond hearing.

Petitioner also claims that he is entitled to a bond hearing as a matter of due process. *See* ECF No. 1 ¶¶ 42-45. The Court should reject this argument.

First, for Petitioner to show that he has been denied due process, he would need to show that he has been deprived of a statutory right. The Supreme Court has “often reiterated” the “important rule” that for “foreigners who have never been . . . admitted into the country pursuant to law,” “the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law.” *DHS v. Thuraissigiam*, 591 U.S. 103, 138

(2020). There, the Court explained that an alien who was an “applicant for admission” had “only those rights regarding admission that Congress has provided by statute,” and “the Due Process Clause provides nothing more.” *Id.* at 140.

Second, Petitioner has not shown any prejudice. He has not shown that he has been denied due process in his immigration proceedings, where he can challenge the determination that § 1225(b)(2)(A) applies to him. As he will have that opportunity through his immigration proceedings, he has not shown a violation of his rights to procedural due process. *See Duran-Hernandez v. Ashcroft*, 348 F.3d 1158, 1163 (10th Cir. 2003) (where a noncitizen failed to show “that additional procedural safeguards would have changed” the immigration court’s decision, this “failure to prove prejudice leads us to reject [his] due process claim”). As another court in this District has explained in analyzing a due process challenge to immigration detention, “so long as the government reasonably affords noncitizen detainees in ongoing immigration proceedings administrative process to challenge the *merits* determinations that are keeping them in custody, continued custody is permissible.” *Bonilla Espinoza v. Ceja*, Civil Action No. 25-cv-01120-GPG (D. Colo. May 21, 2025), ECF No. 11 at 13.

Third, there is no due process concern because Petitioner’s detention has a definite termination point—the conclusion of his removal proceedings. In a different context, the Supreme Court has explained that noncitizens who were convicted of certain crimes may be detained during the entire course of their removal proceedings. *Demore v. Kim*, 538 U.S. 510, 513 (2003). In that case, like this one, Congress mandated detention pending removal proceedings. *See id.*; 8 U.S.C. § 1226(c). The Court reasoned that the “definite termination point” of the detention at the end of removal proceedings assuaged any constitutional concern.

See Demore, 538 U.S. at 529.

The same is true here. Petitioner’s removal proceedings are moving toward a definite endpoint. *See* Ex. A ¶ 19 (Petitioner’s next hearing in removal proceedings is scheduled for January 16, 2026). His detention will conclude with a final order of removal or a denial of the charges against him. Congress’s decision to detain him pending removal is a “constitutionally permissible part of [this] process.” *See Demore*, 538 U.S. at 530-31 (rejecting due process claim arising from petitioner’s mandatory detention under § 1226(c), even though petitioner was detained for six months, which was “longer than the average” period of detention).

Petitioner has failed to demonstrate that the Fifth Amendment requires any additional process be provided to him.

CONCLUSION

The Court should dismiss or deny the Petition.²

Respectfully submitted January 7, 2026.

PETER MCNEILLY
United States Attorney

s/ Alexandra J. Berger
Alexandra J. Berger
Assistant United States Attorney
1801 California Street, Suite 1600
Denver, Colorado 80202
Telephone: (303) 454-0100
Email: alexandra.berger@usdoj.gov
Counsel for Respondents

² Should the Court determine that Petitioner is detained under § 1226(a) rather than § 1225(b)(2)(A) and grant the Petition, the appropriate relief is to require a bond hearing, rather than immediate release, because a bond hearing is all he would be entitled to under § 1226(a).

CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record.

s/ Alexandra J. Berger
U.S. Attorney's Office