

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MURAD RABADANOV,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondents.

Civil Action No. 1:25-cv-00286-H

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF**

Ryan Raybould
United States Attorney

/s/ Omar J. Famada
OMAR J. FAMADA
Special Assistant United States Attorney
Texas Bar No. 24144940
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8600
Facsimile: 214-659-8807
omar.j.famada@ice.dhs.gov

Attorneys for Respondents

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 requesting release from immigration detention and an injunction preventing the Petitioner from being moved outside of the district. Petitioner alleges that he cannot be subject to mandatory immigration detention but, rather, is entitled to a bond hearing in immigration court (or even immediate release by order of this Court). But as explained herein, Petitioner is not entitled to any relief.

Petitioner is lawfully detained as an arriving alien under the Immigration and Nationality Act (INA). *See* 8 U.S.C. § 1225(b)(2). Contrary to the petition's allegations, Petitioner did not enter the United States without inspection but instead applied for admission at a port of entry in California, where he was placed in removal proceedings (i.e., because he was inadmissible) and was paroled into the country as an arriving alien in an undetained status. But notwithstanding that, federal regulations define an "arriving alien" as an "applicant for admission," irrespective of parole status. 8 C.F.R. § 1.2. And applicants for admission are subject to mandatory detention under § 1225(b) (unless paroled, and there is no right to parole nor any right to have any parole status continue indefinitely). Petitioner therefore has no viable claim for habeas relief insofar as the government has the authority to detain him on a mandatory basis under that statute. Moreover, to the extent Petitioner complains of alleged due process violations, the fact remains that Petitioner is in full removal proceedings in immigration court, as opposed to expedited removal proceedings, and therefore is being provided with robust due process protections (including available judicial review upon the completion of administrative proceedings). Release on bond is not one of the protections guaranteed by statute, but

that does not offend the Constitution. The petition should be denied.

I. Background

Petitioner is a native and citizen of Russia who entered the United States as an “arriving alien” on August 15, 2002. (App. at 002-003). On November 10, 2025, Petitioner was detained by Oklahoma state authorities and transferred to ICE custody. (App. at 002).

Petitioner filed this habeas action, in which he argues that his detention does not fall under 8 U.S.C. § 1225 but rather is properly understood to fall under a separate provision, at 8 U.S.C. § 1226, which allows for a bond hearing in immigration court, or that he is otherwise entitled to a bond hearing in immigration court (or even outright release) by order of this Court. (Dkt. No. 1 at ¶¶ 33-50). Petitioner states in his petition that he “entered the United States without inspection.” (Dkt. No. 1 at ¶ 19). However, according to ICE records, Petitioner in fact presented himself at a port of entry, where he was immediately placed in removal proceedings through the issuance of a notice to appear (i.e., because he was inadmissible), but nonetheless was paroled into the country and permitted to remain in an undetained status. (App. at 002). The available records do not clearly evidence exactly how or why this occurred, but Petitioner appears to have been paroled pursuant to DHS’ discretion. *See* 8 U.S.C. § 1182(d)(5); 8 C.F.R. § 212.5. Nonetheless, as the Notice to Appear states, Petitioner is an “arriving alien,” (App. at 003), and that status does appear to have changed. Instead, Petitioner remains in removal proceedings, where he has conceded to removability but is seeking relief against it through the filing of application for asylum or withholding of removal. (App. 009-017).

Meanwhile, Petitioner has also filed this habeas action in which he argues that he is not properly subject to detention under § 1225, but instead should be treated as a § 1226 detainee who may receive a bond hearing in immigration court.

II. Argument and Authorities

A. As an “applicant for admission,” Petitioner is subject to mandatory detention without bond under § 1225(b)(2)(A).

The Court’s analysis should “begin with the statutory text, and end there as well if the text is unambiguous.” *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004) (cleaned up). And here, that statutory text dictates that Petitioner is subject to mandatory detention under § 1225 (unless DHS in an exercise of its parole discretion allows him to be undetained).

In pertinent part, § 1225 defines “applicant for admission” as “[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival).” 8 U.S.C. § 1225(a)(1). Moreover, an “arriving alien means an applicant for admission.” 8 C.F.R. § 1.2.

Petitioner presented himself to an immigration officer and was paroled into the United States as an “arriving alien.” App. at 002-003. Moreover, Petitioner was never “admitted” to the United States, for purposes of § 1225(a)(2), because “admission” and “admitted” is defined as excluding “an alien who is paroled under section 1182(d)(5).” *See* 8 U.S.C. § 1101(13)(B).

Instead, in immigration court, Petitioner conceded to removability and the remaining allegations in the Notice to Appear and has applied for asylum and

withholding of removal. (App. at 009-016). Therefore, as an “applicant for admission” who “is not clearly and beyond a doubt entitled to be admitted” and is removable, Petitioner “shall be detained” under § 1225(b)(2)(A), and as such, is not entitled to a bond hearing.

Petitioner relies on an argument that the concept of an “applicant for admission” should apply only to aliens who are arriving in the country and are apprehended or encountered at the border or a port of entry, and should not apply to persons who have been living inside the United States without lawful presence. (*See* Dkt. No. 1 at ¶¶ 44-46 (arguing that “the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation’s border or another point of entry” and “does not apply to noncitizens ‘already present in the United States’—only § 1226 applies in those cases”)). However, as explained above, Petitioner was “seeking entry into the United States at the nation’s border” when he was denied formal admission to the country by immigration officials and instead was issued a notice to appear; the fact that he was allowed to remain in the United States in an undetained status for some period of time, apparently as a type of discretionary parole, did not transform his status from something other than an “arriving alien.” Petitioner is therefore subject to detention without the right to a bond hearing until conclusion of his removal proceedings (unless DHS in an exercise of its discretionary parole authority allows him to remain undetained, which DHS has determined not to do at this time).

In sum, Petitioner is subject to mandatory detention under § 1225(b)(2)(A). Even if Petitioner is not (or is no longer) an “arriving alien,” the statutory text is unambiguous:

“[A]n alien present in the United States who has not been admitted” is also an “applicant for admission.” 8 U.S.C. § 1225(a)(1). And if an “applicant for admission” is “not clearly and beyond a doubt entitled to be admitted,” he “shall be detained” pending his removal proceedings. *Id.* § 1225(b)(2)(A). When a statute is this clear, it must be applied according to its terms. *Carcieri v. Salazar*, 555 U.S. 379, 387 (2009).

B. The Due Process Clause does not require that Petitioner receive a bond hearing in immigration court.

Petitioner also claims that the unavailability of a bond hearing in immigration court violates the Due Process Clause of the Fifth Amendment. (*See* Dkt. No. 1 at ¶ 155). But no theory of due process—whether “substantive” or “procedural” in nature—supports Petitioner’s case.

First, consider substantive due process. That doctrine protects “only ‘those fundamental rights and liberties which are, objectively, deeply rooted in this Nation’s history and tradition.’” *Dep’t of State v. Muñoz*, 602 U.S. 899, 910 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997)). While still recognizing due-process rights for aliens present in the United States, *see, e.g., Trump v. J.G.G.*, 604 U.S. 670, 673 (2025), the Supreme Court has long affirmed the constitutionality of executive immigration procedures. The “through line of history,” the Supreme Court recently explained, is “recognition of the Government’s sovereign authority to set the terms governing the admission and exclusion of noncitizens.” *Muñoz*, 602 U.S. at 911–12. To that end, “Congress regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426 U.S. 67, 80 (1976).

The principle is no less true for immigration detention. In fact, the Supreme Court has endorsed the constitutionality of detaining aliens without bond during the pendency of removal proceedings. In *Demore v. Kim*, the Supreme Court acknowledged that “the Fifth Amendment entitles aliens to due process of law in deportation proceedings.” 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). But it clarified that “detention during deportation proceedings” is nevertheless a “constitutionally valid aspect of the deportation process.” *Id.* Indeed, “when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal.” *Id.* at 528. It follows that “the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings.” *Id.* at 526. Against that backdrop, the notion that substantive due process requires a bond hearing is untenable.

A procedural due process claim fares no better. As an “applicant for admission,” Petitioner has “only those rights regarding admission that Congress has provided by statute.” *Thuraissigiam*, 591 U.S. at 140; see *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (“This Court has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative.”). With § 1225, Congress set the procedural rights afforded to aliens who are present in the United States without admission. “Read most naturally,” § 1225(b)(2)(A) “mandate[s] detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297. No part of the statute “says anything whatsoever about bond hearings.” *Id.*

Accordingly, Petitioner is not entitled to a bond hearing as a matter of procedural due process.

Petitioner's reliance on *Mathews v. Eldridge*, 424 U.S. 319 (1976), is also misplaced. (See Dkt. No. 1 at ¶¶ 146-155). The Supreme Court, "when confronted with constitutional challenges to immigration detention[,] has not resolved them through express application of *Mathews*." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); see also *Demore*, 538 U.S. at 523, 526–29; *Dusenbery v. United States*, 534 U.S. 161, 168 (2002) ("[W]e have never viewed *Mathews* as announcing an all-embracing test for deciding due process claims."). Nor has the Fifth Circuit. But even were this Court to find that *Mathews* applies, the conclusion would nevertheless be the same—Petitioner's detention is constitutional even under *Mathews*.

Mathews outlines a three-part "flexible" test to determine whether due process complies with the Constitution. *Mathews*, 424 U.S. at 321. Under *Mathews*, courts consider: (1) the individual's interest; (2) the risk of erroneous deprivation of the right absent further procedures; and (3) the government's interest. *Id.* at 334. Any analysis of these factors in the immigration context must "weigh heavily" the fact that "control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature." *Landon*, 459 U.S. at 34. And a correct application of the *Mathews* test weighs against ordering any relief in connection with Petitioner's mandatory detention under § 1225.

First, although Petitioner no doubt has a personal liberty interest in freedom from detention, this interest is substantially diminished by the executive's prerogative to

enforce the country's immigration laws. *See, e.g., Rodriguez Diaz*, 53 F.4th at 1208. The Supreme Court has emphasized that "detention during deportation proceedings [remains] a *constitutionally valid* aspect of the deportation process." *Demore*, 538 U.S. at 523 (emphasis added). Any assessment of the private interest at stake therefore must account for the fact that the Supreme Court has never held that aliens have a constitutional right to be released from custody during the pendency of removal proceedings and, in fact, has held precisely the opposite. *See id.* at 530; *see also Carlson*, 342 U.S. at 538 ("Detention is necessarily a part of this deportation procedure."). Moreover, Petitioner functionally has the ability to end his detention at any time, by simply agreeing to leave the United States and not contesting the government's attempts to remove him.

Regarding the second *Mathews* factor, applicable statutes and regulations already provide extensive protections to all aliens detained pursuant to § 1225, including appeals to the BIA and the ability to file a petition for review in a court of appeals. There is no basis in law for imposing yet more procedures that neither Congress nor the relevant agencies have adopted.

Finally, as to the third factor *Mathews* factor, the government's interests in maintaining the existing procedures are legitimate and significant. As a general matter, the Supreme Court has stressed that the government "need[s] . . . flexibility in policy choices rather than the rigidity often characteristic of constitutional adjudication" when it comes to immigration regulation. *Diaz*, 426 U.S. at 81. Accepting Petitioner's position would flout this directive by injecting that very rigidity into the discretionary detention regime Congress adopted.

In determining what process is due in immigration proceedings, “it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature.” *Landon*, 459 U.S. at 34. “[A]ny policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government.” *Mathews*, 426 U.S. at 81 n.17 (quoting *Harisiades v. Shaughnessy*, 342 U.S. 580, 588–89 (1952)). “Congress has repeatedly shown that it considers immigration enforcement—even against otherwise non-criminal [noncitizen]s—to be a vital public interest.” *Miranda v. Garland*, 34 F.4th 338, 364 (4th Cir. 2022). It is thus clear that, in the case of aliens seeking admission, “the government interest includes detention.” *Id.* And the Supreme Court has stated removal proceedings “would be vain if those accused could not be held in custody pending the inquiry into their true character.” *Wong Wing v. United States*, 163 U.S. 228, 235 (1896). Further, “[t]he continued presence of an alien lawfully . . . undermines the streamlined removal proceedings [Congress] established, and permit[s] and prolong[s] a continuing violation of United States law.” *Nken v. Holder*, 556 U.S. 418, 436 (2009); see *Landon*, 459 U.S. at 34 (“The government’s interest in efficient administration of the immigration laws . . . is weighty.”).

Therefore, all three *Mathews* factors cut against Petitioner, and no entitlement to relief under the Due Process Clause has been shown.

C. Petitioner is not entitled to injunctive relief.

Petitioner requests that ICE be enjoined from transferring him to another facility “to preserve jurisdiction and access to counsel.” (Dkt. No. 1 at pg. 32). Prior to his detention in Texas, Petitioner resided in California but retained a Chicago-based attorney. (See Dkt. No. 1 at 1, 32). Petitioner does not assert an inability to communicate with his attorney. Petitioner could have retained a Texas-based attorney and any inconvenience resulting from his choice of counsel is self-inflicted. Nevertheless, claims regarding prison transfers are generally not cognizable under § 2241. See *Greenhill v. Meniffee*, 202 F. App’x 799, 800 (5th Cir. 2006) (claim not cognizable under § 2241 because prisoners lack a constitutionally protected interest in where they are incarcerated); *Zapata v. United States*, 264 F. App’x 242, 243-44 (3d Cir. 2008) (district court lacked jurisdiction over a § 2241 petition that challenged a transfer). There is no protected liberty interest in being housed in a particular facility. *Armendariz-Mata v. Lappin*, 157 F. App’x 767 (5th Cir. 2005) (citing *Yates v. Stalder*, 217 F.3d 332, 334 (5th Cir. 2000)).

Also, Petitioner’s physical presence in this district is not required for the adjudication of his Petition. Jurisdiction attaches upon filing a habeas petition, and it is not destroyed upon the subsequent transfer or custodial change of the petitioner. See *McClure v. Hopper*, 577 F.2d 938, 939-40 (5th Cir. 1978). Therefore, any transfer of Petitioner outside of the district would not affect the Court’s jurisdiction over Petitioner’s habeas claim.

III. Conclusion

Petitioner is entitled to no relief and his claims should be denied.

Respectfully submitted,

Ryan Raybould
United States Attorney

/s/ Omar J. Famada
OMAR J. FAMADA
Special Assistant United States Attorney
Texas Bar No. 24144940
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8600
Facsimile: 214-659-8807
omar.j.famada@ice.dhs.gov

Attorney for Respondents

Certificate of Service

On January 12, 2026, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Omar J. Famada
OMAR J. FAMADA
Special Assistant United States Attorney