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

SAMUEL ANTONIO ALCALA-GARCIA,

Petitioner,

v.

KRISTI NOEM, et al.,

Respondents.

Civil Action No. 3:25-cv-03536-S-BN

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR INJUNCTIVE RELIEF

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I. Introduction

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and injunctive relief to challenge his recent detention by Immigration and Customs Enforcement (ICE). (Dkt. No. 1 (petition). 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 instead lawfully detained on a mandatory basis as an alien present in the United States without inspection or parole (i.e., as someone who entered the country illegally) under the Immigration and Nationality Act (INA). *See* 8 U.S.C. § 1225(b)(2). To the extent there was ever an ambiguity regarding whether such aliens were entitled to a bond hearing in immigration court, the Board of Immigration Appeals (BIA) resolved that issue in a September 2025 precedential decision holding that immigration courts are not authorized to entertain bond requests by aliens present in the United States without being admitted or paroled. *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Such aliens are instead subject to mandatory detention under § 1225(b)(2) as applicants for admission. Moreover, to the extent Petitioner alludes to 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.

II. Background

Petitioner is a native and citizen of Venezuela who illegally entered the United States at an unknown place and at an unknown time. (App. 003.) On October 22, 2025, Petitioner was encountered by Immigration Officers in Dallas, Texas, at which time it was determined that he is a Venezuelan National who is present in the United States with no legal entry. (App. 003.) Petitioner admits he was "apprehended by DHS near the United States–Mexico border on or about September 3, 2022." (Dkt. No. 1 at 5.)[1] He also argues "that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived *without inspection*—persons in precisely the same legal circumstances as Mr. Alcala—are eligible to request bond hearings before the immigration court." (Dkt. No. 1 at 9, emphasis added.) Respondents address their response accordingly, that is, to Petitioner's argument that his detention does not fall under 8 U.S.C. § 1225 but rather under 8 U.S.C. § 1226. (Dkt. No. 1 at 10, 12, 13, 18.) Respondent has detained Petitioner under authority of INA § 235 (i.e., 8 U.S.C. § 1225) pending completion of the removal proceedings. (App. 003.)

III. Relevant Immigration Law

This case implicates the interplay of various statutes that govern the civil detention of illegal aliens (1) pending a decision on removal, (2) during the administration of

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[1] Petitioner continues the sentence. "... he was *inspected*, processed, and released into the United States on *parole* under INA § 212(d)(5)." (Dkt. No. 1 at 5, emphases added.) Parolees are not regarded as admitted, and when parole is terminated the alien is "dealt with in the same manner as that of any other applicant for admission to the United States." INA § 212(d)(5)(A). The Immigration Court proceedings are ongoing. (App. 009-010.) (Notice of hearing set for January 15, 2026).

removal orders, and (3) in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. Properly construed, these statutes provide that individuals such as Petitioner are considered applicants for admission to the United States and are therefore subject to mandatory detention under § 1225.

A. Inspection and detention under 8 U.S.C. § 1225

"To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering." *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Section 1225 governs inspection, the initial step in this process, *id.*, stating that all alien "applicants for admission . . . shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3). The statute—in a provision entitled "ALIENS TREATED AS APPLICANTS FOR ADMISSION"—dictates who "shall be deemed for purposes of this chapter an applicant for admission," defining that term to encompass *both* an alien "present in the United States who has not been admitted *or* [one] who arrives in the United States . . . ." *Id.* § 1225(a)(1) (emphasis added).

Paragraph (b) of § 1225 governs the inspection procedures applicable to all applicants for admission. They "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings*, 583 U.S. at 287. Section 1225(b)(1) applies to those "arriving in the United States" and "certain other"[2] aliens

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[2] "Certain other aliens" are addressed in Section 1225(b)(1)(A)(iii), which gives the Attorney General the sole discretion to apply (b)(1)'s expedited procedures to an alien who "has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility," subject to an exception inapplicable

"initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.* § 1225(b)(1)(A)(i),(iii). Aliens falling under this subsection are generally subject to expedited removal proceedings "without further hearing or review." *See id.* § 1225(b)(1)(A)(i). But where the applicant "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer him or her for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An applicant "with a credible fear of persecution" is "detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is "found not to have such a fear," he is detained until removal from the United States. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is "broader" than (b)(1), "serv[ing] as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Jennings*, 583 U.S. at 287. Subject to exceptions not applicable here, "if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall* be detained for a removal proceeding." 8 U.S.C. § 1225(b)(2)(A) (emphasis added); *see also Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) ("for aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'")

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here. The statute therefore explicitly confirms application of its inspection procedures for those already in the country, including those who have been in the country for a period of years.

(citing *Jennings*, 583 U.S. at 299). The only exception is that DHS—not the immigration court—retains sole discretionary authority to temporarily release on parole "any alien applying for admission" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

B. Apprehension and discretionary detention under 8 U.S.C. § 1226(a)

"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)." *Jennings*, 583 U.S. at 288 (citing 8 U.S.C. § 1227(a), which outlines "classes of deportable aliens" among those already "in *and admitted* to the United States") (emphasis added)). "Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal." *Id.* "[O]n a warrant issued by the Attorney General," it provides that an alien may be arrested and detained pending a decision" on the removal. 8 U.S.C. § 1226(a). For aliens arrested under §1226(a), the Attorney General and the DHS have broad discretionary authority to detain an alien during removal proceedings.[3] *See* 8 U.S.C.

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[3] Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General's authority—delegated to immigration judges, *see* 8 C.F.R. § 1003.19(d)—to detain, or authorize bond for aliens under section 1226(a) is "one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings." *Matter of D-J-*, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

§ 1226(a)(1) (DHS "may continue to detain the arrested" alien during the pendency of removal proceedings).

Following apprehension under § 1226(a), a DHS officer makes an initial discretionary determination concerning release. *See* 8 C.F.R. § 236.1(c)(8). DHS "may continue to detain the alien." 8 U.S.C. § 1226(a)(1). "To secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8)); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999)). If DHS decides to release, it may set a bond or condition the release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8).

If DHS determines that an alien should remain detained during the pendency of his removal proceedings, the alien may request a bond hearing in immigration court. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The immigration court conducts a bond hearing and decides whether release is warranted, based on a variety of factors that account for ties to the United States and risks of flight or danger to the community. *See In re Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (identifying nine non-exhaustive factors); 8 C.F.R. § 1003.19(d) ("The determination . . . as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].").

Section 1226(a) does not grant "any *right* to release on bond." *Matter of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). Nor does it address the applicable burden of proof or particular factors that must be considered. *See*

generally 8 U.S.C. § 1226(a). Rather, it grants DHS and the Attorney General broad discretionary authority to determine, after arrest, whether to detain or release an alien during his removal proceedings. *See id.* If, after the bond hearing, either party disagrees with the decision of the immigration court, that party may appeal that decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3). Included within the Attorney General and DHS's discretionary authority are limitations on the delegation of that authority to the immigration court. Under 8 C.F.R. § 1003.19(h)(2)(i)(B), the immigration court does not have authority to redetermine the conditions of custody imposed by DHS for any arriving alien.

C. The BIA's role

The BIA is an administrative appellate body within the Department of Justice that essentially serves as the court of appeals for the immigration court system. *See* 8 C.F.R. § 1003.1(d)(1). Members of the BIA possess delegated authority from the Attorney General. *Id.* § 1003.1(a)(1). The BIA is "charged with the review of those administrative adjudications under the [INA] that the Attorney General may by regulation assign to it," including custody determinations. *Id.* §§ 1003.1(d)(1), 236.1, 1236.1. The BIA not only resolves particular disputes before it, but also "through precedent decisions, [it] shall provide clear and uniform guidance to DHS, the immigration judges, and the general public on the proper interpretation and administration of the [INA] and its implementing regulations." *Id.* § 1003.1(d)(1). "The decision of the [BIA] shall be final except in those cases reviewed by the Attorney General." *Id.* § 1003.1(d)(7).

IV. Argument and Authorities

As explained below, Petitioner is not entitled to any relief in this proceeding because (a) the INA authorizes his detention without bond, and (b) the Due Process Clause does not require that Petitioner receive a bond hearing. *See Zuniga v. Lyons*, ___ F. Supp. 3d ___, 2025 WL 3755126 (N.D. Tex. 2025) (rejecting similar claims by an immigration detainee).

A. The INA authorizes Petitioner's detention without bond.

Petitioner's claims implicate the interplay between 8 U.S.C. §§ 1225 and 1226. Section 1225(b)(2)(A), the INA's mandatory-detention provision, sets out detention requirements for "applicant[s] for admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Specifically, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." *Id.* It is undisputed that, subject to certain narrow exceptions,[4] § 1225(b)(2)(A) "mandate[s] detention of applicants for admission until certain [removal] proceedings have concluded." *Jennings*, 583 U.S. at 297. Nothing in § 1225 "says anything whatsoever about bond hearings." *Id.*

Section 1226(a), on the other hand, permits discretionary detention. "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision

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[4] In particular, DHS has the discretionary authority to temporarily parole certain aliens who otherwise are subject to mandatory detention. *See* 8 U.S.C. § 1182(d)(5)(A).

on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Instead of detention, the Attorney General "may" release the alien on bond, "[e]xcept as provided in subsection (c)." *Id.* § 1226(a), (2)(A)–(B). Section 1226(c) in turn requires the Attorney General to "take into custody any alien" who is inadmissible or removable for involvement in certain criminal offenses. *Id.* § 1226(c)(1)(A)–(E); *see Jennings*, 583 U.S. at 303. If § 1226(c) does not apply, and if an alien is released on bond pending removal, the Attorney General may still re-detain him "at any time." 8 U.S.C. § 1226(b).

Here, the question is whether Petitioner—who surreptitiously crossed the border without inspection and has resided illegally in the United States before his later apprehension and detention by ICE—is an "applicant for admission." 8 U.S.C. § 1225(b)(2)(A). If so, Petitioner "shall be detained" without bond. *Id.* If not, Petitioner would be entitled to a bond hearing under § 1226(a).

1. 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). That is the situation here. Section 1225 broadly 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." 8 U.S.C. § 1225(a)(1). Petitioner is undoubtedly an "alien." And he is "present in the United States." And he "has not been admitted" because he did not "lawful[ly] ent[er] [the country] after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A) (defining "admission" and "admitted").

As an "applicant for admission" who "is not clearly and beyond a doubt entitled to be admitted," Petitioner "shall be detained" under § 1225(b)(2)(A), and therefore is not entitled to a bond hearing.

Petitioner's claim otherwise essentially hinges on an argument that being an "applicant for admission" does not alone trigger mandatory detention under § 1225, and instead such detention 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 managed to evade detection for some person of time after entering the country illegally. (*See, e.g.*, Dkt. No.1 at 8-9, 19.) But this sort of argument—which would functionally limit the term "applicant for admission" to arriving aliens for purposes of bond ineligibility—is contrary to the plain text of the statute. Section 1225 expressly defines "applicant for admission," and covers "[a]n alien present in the United States who has not been admitted *or* who arrives in the United States." 8 U.S.C. § 1225(a)(1) (emphasis added). The word "or" is key. As the Supreme Court has often said, "'or' is 'almost always disjunctive.'" *Encino Motorcars, LLC v. Navarro*, 584 U.S. 79, 87 (2018) (quoting *United States v. Woods*, 571 U.S. 31, 45 (2013)). And nothing in § 1225(b)(2)(A) suggests otherwise. Therefore, the term "applicant[s] for admission" does not just cover arriving aliens for purposes of § 1225(b)(2)(A): it also covers aliens who, like Petitioner, are present in the United States—for decades even—without admission.

This interpretation tracks how other courts understand the term. In *Jennings*, the Supreme Court explained that, "[u]nder [Section 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.'" 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). And the BIA—with its considerable expertise in immigration law—recognizes that Congress' "unconventional" definition of "applicant for admission" includes "not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission." *Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012). At any rate, "[w]hen a statute includes an explicit definition, [the Court] must follow that definition." *Digit. Realty Tr., Inc. v. Somers*, 583 U.S. 149, 160 (2018) (quoting *Burgess v. United States*, 553 U.S. 124, 130 (2008)).

Confining the concept of an "applicant to admission" only to those seeking admission at or near the border would also elevate form over substance. "There is no material disjunction—by the terms of the statute or the English language—between the concept of 'applying' for something and 'seeking' something." *Garibay-Robledo v. Noem*, ___ F. Supp. 3d ____, 2025 WL 3264482, at *5 (N.D. Tex. 2025). An "applicant" is "[s]omeone who requests something." Applicant, Black's Law Dictionary (12th ed. 2024). Thus, an "applicant for admission," in ordinary English usage, is one who requests (or seeks) admission into the United States. *See* Apply (for). Merriam-Webster Thesaurus (noting that to "seek" is a synonym of to "apply" for). It is unclear how an alien can apply for admission without seeking it.

Other parts of § 1225 illustrate the point. Section 1225(a)(3) provides that "[a]ll aliens . . . [w]ho are applicants for admission or otherwise seeking admission . . . shall be inspected." (emphasis added); *see also Shi v. Lyons*, ___ F. Supp. 3d ___, No. 1:25-CV-

274, 2025 WL 3637288, at *5 (S.D. Tex. Dec. 12, 2025) (explaining that § 1225(a)(3)'s "use of 'otherwise' renders 'applicants for admission' a subset of 'seeking admission'—i.e., the former represents one example of the latter"). And § 1225(a)(5) states that "[a]n applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States." The logical import of this phrasing is that an "applicant for admission" is also "seeking admission" under the statute. "Insofar as the term 'applicant for admission' is more passive than 'seeking admission,' this is inherent in the nature of agent nouns and their corresponding gerunds." *Garibay-Robledo*, 2025 WL 3264482, at *5. As such, § 1225 cannot be read to limit its application to aliens "arriving" at the border.

Indeed, if Congress wanted to limit § 1225(b)(2)(A) to arriving aliens, it could have done so. Neighboring provisions in § 1225 expressly refer to "arriving alien[s]." *See, e.g.*, 8 U.S.C. §§ 1225(a)(2) ("arriving alien who is a stowaway is not eligible to apply for admission or to be admitted"), 1225(d)(2) (addressing "authority to order detention and delivery of arriving aliens" coming to the United States via vessel or aircraft). Yet Congress did not use "arriving alien" in § 1225(b)(2)(A). Generally, when Congress "uses certain language in one part of the statute and different language in another, the [C]ourt assumes different meanings were intended.'" *Sosa v. Alvarez-Machain*, 542 U.S. 692, 711 n.9 (2004) (quotation omitted). So the fact that Congress did not refer to "arriving aliens" in § 1225(b)(2)(A), but did so in other parts of the statute, suggests that the mandatory detention provision is not limited to aliens arriving at

the border.

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).

2. The statutory history of the INA confirms that § 1225's mandatory-detention provision applies to aliens like Petitioner.

"Statutory history, 'the record of enacted changes Congress made to the relevant statutory text over time,' can also provide helpful context" for statutory interpretation. *United States v. Moore*, 71 F.4th 392, 395 (5th Cir. 2023) (quoting *BNSF Ry. Co. v. Loos*, 586 U.S. 310, 329 (2019) (Gorsuch, J., dissenting) (emphasis omitted)). Here, the statutory history of the INA confirms what the plain text already makes clear: aliens who illegally entered the United States and are later apprehended in the interior are "applicant[s] for admission" who must be detained pending removal under § 1225(b)(2)(A).

In 1996, Congress added the broad definition of "applicant for admission" to the INA in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Pub. L. No. 104-208, 110 Stat. 3009. "Prior to the [IIRIRA], the INA assessed status on the basis of 'entry' as opposed to 'admission.'" *Martinez v. Att'y Gen.*, 693 F.3d 408.

413 n.5 (3d Cir. 2012) (quoting 8 U.S.C. § 1101(a)(13) (1994)). Under this so-called entry doctrine, aliens who snuck into the United States without inspection were entitled to the procedural and substantive protections afforded in deportation proceedings. *Id.* Yet aliens who presented themselves to immigration officials for inspection—say, at a port of entry—were subject to "more summary exclusion proceedings." *Id.* (quotation omitted). This distinction—where aliens who followed the rules and presented for inspection were worse off than those who broke the law—created "a perverse incentive to enter at an unlawful rather than a lawful location." *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020).

IIRIRA did away with this anomaly. Congress replaced the entry doctrine with a criterion based on admission, which it defined as "*lawful* entry . . . after inspection and authorization." 8 U.S.C. § 1101(a)(13)(A) (emphasis added). Congress also added § 1225(a)(1)—the definition of "applicant for admission"—and mandated detention for all such applicants while their removal proceedings play out. *See* 8 U.S.C. § 1225(b)(2)(A). By defining "applicant for admission" to include all aliens who have not been admitted, Congress thus eliminated the previous incentives to enter the country illegally.

Adopting Petitioner's argument that he is not subject to § 1225(b)(2)(A) would mark a return to those bygone days. On Petitioner's view, aliens who bypass inspection and settle down in the interior have more procedural protections than aliens who present themselves for inspection at the border. But that, of course, is "the precise situation that Congress intended to do away with by enacting" IIRIRA. *United States v. Gambino-*

Ruiz, 91 F.4th 981, 990 (9th Cir. 2024). Thus, the INA's statutory history supports the view that § 1225(b)(2)(A) requires detention without bond for all applicants for admission—including those who entered the country illegally and have resided here for years.

3. Petitioner's arguments under the APA about an alleged violation of statutory or regulatory procedures are unavailing.

Petitioner claims that the unavailability of a bond hearing in immigration court also constitutes unlawful agency action in violation of statute or "an immigration regulation", implicating the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. (*See* Dkt. No. 1 at 13.) As discussed above, though, the statutory and regulatory scheme, properly understood, requires Petitioner's detention under § 1225. But regardless, Petitioner's attempt to proceed under the APA also fails because for another reason: the APA is available only for final agency action "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. And that is the case here, because the habeas remedy that Petitioner is pursing serves as an adequate other form of obtaining judicial review, thus displacing the APA.

Indeed, in *Trump v. J.G.G.*, the Supreme Court held that where immigration detainees' claims "necessarily imply the invalidity of [] confinement," those claims "must be brought in habeas." 604 U.S. 670, 672 (2025) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in a concurrence, "given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another 'adequate remedy in a court,' I agree with the Court that habeas corpus, not the APA, is the proper

vehicle here." *Id.* at 674 (Kavanaugh, J. concurring).

Here, as in *J.G.G.*, habeas is an "adequate remedy" through which Petitioner can challenge any future denial of a bond hearing. Thus, even if his APA claim had merit, which it does not, the result would be the same as that in habeas—the government would presumably be required to hold a bond hearing to assess whether detention can continue. For this reason, Petitioner is not entitled to any relief on his unlawful agency action claim.

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 11-12.) 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 due process allegations are also dispelled by *Mathews v. Eldridge*, 424 U.S. 319 (1976). (*See* Dkt. No. 1 at 11-12.) 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 were to find that *Matthews* applies, the conclusion would nevertheless be the same—Petitioner's detention is constitutional even under *Matthews*.

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 given that Petitioner is illegally in this country with no permission to remain. *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.

V. Conclusion

The petition and request for injunctive relief should be denied.

Respectfully submitted.

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Certificate of Service

On January 13, 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).

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