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

ABDUMADZHITKHON ZIIADULLAEV, Petitioner, v. TODD LYONS, et al., Respondents.	Civil Action No. 1:25-cv-00292-H

RESPONSE TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS

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

I. Introduction

Pursuant to 28 U.S.C. § 2241, Petitioner seeks a writ of habeas corpus requesting release from immigration detention. 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). On May 25, 2023, Petitioner applied for admission at the Port of Entry in Laredo, Texas and was placed in removal proceedings (i.e., because he was inadmissible), and paroled into the country for one year 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, however, Petitioner's parole status automatically terminated one year after entering the country and prior to his current detention. 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, Petitioner is in full removal proceedings in immigration court, as opposed to expedited removal proceedings, and as such, 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 Russia who was paroled for one-year into the United States as an "arriving alien" on May 26, 2023. (App. at 003). As referenced in the petition, and as also confirmed by ICE records, Petitioner presented himself at a port of entry in 2023, where he was placed in removal proceedings through the issuance of a Notice to Appear (i.e., because he was inadmissible), but nonetheless was paroled for one year into the country and permitted to remain—for that period of parole—in an undetained status. (App. at 003). DHS has the discretionary authority to parole arriving aliens. *See* 8 U.S.C. § 1182(d)(5); 8 C.F.R. § 212.5. But after Petitioner's parole automatically expired, he was detained and transferred to ICE's custody, where he remains during removal proceedings. (App. 003-011). Since June 21, 2025, Petitioner has been in the custody of ICE under the authority of INA § 235 (i.e., 8 U.S.C. § 1225), (App. at 003), which provides for the mandatory detention (subject only to the possibility of discretionary parole, which as noted above DHS granted, but on a time-limited basis) for any alien who is an "applicant for admission" and who has not been formally admitted to the country.

Petitioner has since filed this habeas action, in which he argues that the "government is detaining [him] under § 1226," (Dkt. No. 8 at ¶ 31), and that this detention is somehow improper under the Due Process Clause or other principles, (*see* Dkt. No. 8 at ¶¶ 18-39). Petitioner seeks an order from this Court for a bond hearing in immigration court, or for his immediate release. (Dkt. No. 8 at 10 (Prayer for Relief)).

Although not expressly stated in this manner in the petition, Petitioner evidently believes that he is not properly subject to detention under § 1225 because he instead asserts that he is a § 1226 detainee who should receive a bond hearing in immigration court. (Dkt. No. 8 at ¶¶ 31-36).

III. 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). The statutory text requires that the Petitioner must be held in mandatory detention under § 1225, unless DHS uses its discretion to grant parole and release him. However, because the Petitioner's parole had expired prior to the current term of detection and was not renewed, he is now subject to mandatory detention.

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 003). In addition, Petitioner was never "admitted" to the United States, for purposes of § 1225(a)(2), because "admission" and "admitted" are defined as excluding "an alien who is paroled under section 1182(d)(5)." *See* 8 U.S.C. § 1101(13)(B). Therefore, 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 as such, is not entitled to a bond hearing.

Petitioner incorrectly asserts that the government is detaining him under 8 U.S.C. § 1226(c). (Dkt. No. 8 at ¶ 31). However, as explained above, Petitioner is detained pursuant to § 1225(b)(2)(A) as he was "seeking entry into the United States at the nation's border" where 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 one year under 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.

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. 8 at ¶ 27.)

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. 8 at ¶¶ 24-29). 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 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. *Zadvydas* does not apply to aliens held in detention prior to a final order of removal.

At several places in the petition, Petitioner cites *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), which holds that unless there is significant likelihood of removal in the reasonably foreseeable future, the government may not detain aliens more than six months *after they become subject to a final order of removal*. But here, Petitioner has not yet been finally ordered removed, and therefore *Zadvydas* is applicable and any detention lasting more than six months during removal proceedings does not violate the law. *See Demore*, 538 U.S. at 527-28 (holding that mandatory detention for aliens during removal proceedings is constitutional).

D. Petitioner's parole automatically terminated.

Petitioner also alleges that his parole was revoked without notice and that he is entitled to a hearing on a parole revocation. (Dkt. No. 8 at ¶ 34). As previously stated, though, Petitioner was paroled for one year, and the statute provides that such parole "shall be automatically terminated without written notice" "at the expiration of the time for which parole was authorized." 8 C.F.R. 212.5(e)(1)(ii). Therefore, the government did not violate the Petitioner's constitutional rights when it detained him after his parole automatically terminated.

IV. Conclusion

For the reasons articulated herein, the petition 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 16, 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