UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Edenilson Antonio Rivas-Munoz Petitioner, v. Kristi Noem, et. al Respondents.	**No.8:26-cv-00045**

Petitioner's Reply to Respondent's Response to Petition for Writ of Habeas Corpus and Motion to Dismiss

I. Introduction

Respondents' assume in their Response and Motion to Dismiss that Petitioner is detained under 8 U.S.C. § 1225(b)(2), which is not correct. As a majority of the courts have held, 8 U.S.C. § 1226(a) applies to the detention of Petitioner. *See Bautista v. Santacruz,* 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025); *Velasquez v. Noem*, Civil Action No. GLR-25-3215, 2025 LX 400577 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, Civil Action No. 25-3084-TDC, 2025 LX 473505 (D. Md. Oct. 21, 2025).

Petitioner Edenilson Antonio Rivas-Munoz is not an "arriving alien," was not apprehended at or near the border, and was not taken into custody pursuant to the inspection process contemplated by § 1225. He is a long-term Maryland resident, the father of a U.S. citizen child with learning disabilities, and has an upcoming Immigration Court hearing at which he intends to

seek cancellation of removal. His warrantless arrest during a routine drive to work and subsequent detention without any opportunity for neutral review violate both the Fourth Amendment and the Fifth Amendment's Due Process Clause.

Respondents' Opposition rests on an overbroad and constitutionally infirm interpretation of 8 U.S.C. § 1225(b)(2) that would render nearly every long-term undocumented resident, no matter how deep their ties to the United States, perpetually subject to mandatory, unreviewable detention. That position is unsupported by the statutory text, inconsistent with precedent, and incompatible with basic principles of due process..

Respondents' Motion to Dismiss should be denied, and the Court should grant habeas relief or, at a minimum, order a prompt custody hearing.

II. Petitioner is not Subject to Mandatory Detention

A. Section 1225 Applies to Inspection and Admission, Not Interior Arrests After Years of Entry

Respondents' response turns on the assertion that Petitioner is mandatorily detained under § 1225 because he is an "applicant for admission." But the Supreme Court has made clear that the § 1225(b) mandatory detention scheme applies only when DHS is exercising its border-inspection authority and has actually made one of the determinations Congress required during that inspection. *See Jennings v. Rodriguez*, 583 U.S. 281, 302–03 (2018). A non-citizen's designation under § 1225(b) depends not on how they entered but on what the immigration officer did at the time of apprehension.

INA § 235(b), implemented at 8 U.S.C. § 1225(b), governs what happens at the border, where an officer inspects an arriving noncitizen and decides whether to admit, parole, or treat the person as inadmissible. The statute repeatedly uses the mandatory phrase "shall be detained," but only after the officer makes the relevant border-inspection determinations. *See* INA §

235(b)(1)(B)(ii), (iii)(IV), and (2)(A). INA § 235(d) further confirms that § 235 applies at the place of "arrival," authorizing inspections of those being brought "into" or "to" the United States. That statutory structure is essential: § 235 applies at the front door. Once inside, Congress shifted detention authority to § 236.

Respondents' position ignores this structure. Petitioner was not inspected at a port of entry, not referred to expedited removal, not issued a § 235(b)(1) order, and not processed as an arriving alien under § 235(b)(2). Instead, he was present in the United States for years before he was unlawfully detained and DHS served him with a Notice to Appear and placed him directly into full INA § 240 removal proceedings, a statutory choice that, under *Jennings*, diverts detention authority to INA § 236. *See* 583 U.S. at 288 ("Section 1226 [INA § 236] generally governs the process of arresting and detaining [noncitizens] once inside the United States.").

As the court explained *in Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025), the INA establishes two distinct detention regimes with different temporal and functional scopes: § 1225 governs the inspection and admission process at the threshold of entry, while § 1226 provides the default detention authority for noncitizens already present in the United States pending removal proceedings. *Bautista* squarely rejected DHS's position that all noncitizens who entered without inspection remain perpetually "applicants for admission," holding instead that § 1225(b)(2) applies only where an "examining immigration officer" makes an admissibility determination in the context of inspection, not where an individual is apprehended in the interior years later. Because individuals like Petitioner, who were not apprehended at the border, were never subjected to an inspection process, and were already living and working in the United States at the time of arrest, do not fall within the inspection framework of § 1225, their detention is governed by § 1226(a), which expressly authorizes discretionary detention and provides for bond

hearings. As *Bautista* emphasized, adopting the Government's contrary interpretation would effectively nullify § 1226, collapse distinct statutory schemes enacted by Congress, and raise serious constitutional concerns by authorizing mandatory, unreviewable detention for broad categories of long-term residents, an outcome the Court refused to endorse. *See id.; see also Velasquez, supra; Maldonado de Leon, supra.*

Therefore, because Petitioner is not an arriving alien, in that he was not apprehended at or near the border, and was not inspected and taken into custody, but, instead, was arrested and detained (without a warrant), after he had been in the U.S. for over twenty years and has a U.S. citizen son, 8 U.S.C. § 1226(a) applies to his detention.

III. Petitioner has Plausibily Alleged a Due Process Violation

A. Warrantless Arrest Without Pre or Prompt Post-Deprivation Process Violates Due Process

Petitioner alleges that he was arrested without a warrant, without exigent circumstances, and without any opportunity to contest his detention before a neutral decision-maker. The Government does not dispute that no custody hearing has been provided.

Under *Mathews v. Eldridge*, the private interest at stake, freedom from physical restraint, is "the most elemental of liberty interests." The risk of erroneous deprivation is acute where detention is automatic and unreviewable. Applying the Mathews factors, courts consistently find that: (a) the private interest in freedom from physical restraint is "the most elemental of liberty interests"; (b) the risk of erroneous deprivation is high where detention occurs without a hearing; and (c) the government's interest in immediate detention without process is minimal. *See P.T. v. Hermosillo*, No. 2:2025cv02259 (W.D.W.A) (applying Mathews and finding detention unconstitutional where ICE failed to provide pre-deprivation process). Applying the three *Mathews* factors to Petitioner's facts shows: 1) Petitioner invokes "'the most significant liberty

interest there is—the interest in being free from imprisonment,'" and a "person's liberty interest cannot be abridged without adequate procedural protections;" 2) the risk of erroneous deprivation is high because no determination was made prior to, or at the time of, Petitioner's arrest, and the Government has alleged no change in circumstances to justify detention; and 3) the Government's interest is minimal, particularly where continued detention is not supported by individualized findings or adequate procedural safeguards. *See Artiga v. Genalo*, No. 25-CV-5208, Mem. & Order at 19 (E.D.N.Y. Oct. 5, 2025). Due to Petitioner's unique circumstances, including a minor U.S. citizen child with learning disabilities, for which he is the primary caregiver and provider, no criminal record, and eligibility for relief, his *Mathews* factors support that he should be entitled to be free from arbitrary and capricious detention under the due process clause.

B. The Entry Fiction Does Not Extinguish All Constitutional Protections

Respondents' reliance on the "entry fiction" doctrine is misplaced. Even assuming its relevance, the Supreme Court has never held that noncitizens physically present in the United States are wholly stripped of Fifth Amendment protections. To the contrary, the Court has repeatedly recognized that persons within the United States are entitled to due process, even if removable.

Moreover, the entry fiction cannot be extended to justify interior arrests decades after entry as if the individual were stopped at the border. Such an expansion would convert a legal fiction into a constitutional black hole.

IV. Petitioner's Fourth Amendment Claim is Properly Before this Court

Petitioner challenges the lawfulness of his seizure, not the admissibility of evidence in removal proceedings. Habeas corpus has long been an appropriate vehicle to challenge unconstitutional detention, including detention flowing from an unlawful arrest.

At a minimum, Petitioner is entitled to litigate whether his warrantless seizure, based solely on a driver's license restriction, was supported by reasonable suspicion or probable cause. The Government's argument goes to ultimate relief, not to whether the claim may be heard.

V. Conclusion

Petitioner has plausibly alleged that his warrantless arrest and continued detention without any opportunity for neutral review violate, inter alia, the Fourth Amendment, the Fifth Amendment, APA, INA, and governing detention statutes. Respondents' Motion to Dismiss should be denied.

The Court should:

1. Grant the Petition for Writ of Habeas Corpus and order Petitioner's release; or
2. In the alternative, order a prompt individualized custody hearing before an immigration judge.

Dated: January 16, 2026

Respectfully submitted,

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