

Magistrate Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KEVIN ALEXANDER QUINONEZ  
TORRES,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:26-cv-00076-TLF

FEDERAL RESPONDENTS'  
RETURN MEMORANDUM

Noted for Consideration:  
January 27, 2026

**I. INTRODUCTION**

Petitioner is mandatorily detained pursuant to 8 U.S.C. § 1225(b)(2) and was detained upon commencement of new removal proceedings. Petitioner's detention is lawful and his habeas petition should be denied. This Return is supported by the Declaration of Katherine G. Collins ("Collins Decl.") with exhibits from Petitioner's certified Alien File.<sup>1</sup>

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<sup>1</sup> Federal Respondents intend to supplement this return with a declaration from a Immigration Customs Enforcement Deportation as soon as possible. At the time of this writing, due to a ICE network outage, the declaration could not be finalized.

## II. LEGAL STANDARD

“Writs of habeas corpus may be granted by ... the district courts ... within their respective jurisdictions.” 28 U.S.C. § 2241(a). Habeas petitioners must prove by the preponderance of the evidence that they are “in custody in violation of the Constitution or laws or treaties of the United States.” *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004); 28 U.S.C. § 2241(c).

## III. BACKGROUND FACTS AND DETENTION AUTHORITY

### A. 8 U.S.C. § 1225(b)

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.” *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country.”). Section 1225 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in the United States who [have] not been admitted” or noncitizens “who arrive[ ] in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287.

Section 1225(b)(1) applies to “arriving aliens” and “certain other” noncitizens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to mandatory detention pending full removal proceedings “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to

1 be admitted.” 8 U.S.C. § 1225(b)(2)(A). Congress has determined that all noncitizens subject to  
2 Section 1225(b) are subject to mandatory detention. Regardless of whether a noncitizen falls  
3 under Section 1225(b)(1) or (b)(2), the sole means of release is “temporary parole from § 1225(b)  
4 detention ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).”  
5 *Jennings*, 583 U.S. at 283.

6 Individuals detained under Section 1225(b) are not entitled to an individualized bond  
7 hearing simply due to the passage of time. The Supreme Court has considered whether 8 U.S.C.  
8 § 1225(b) imposes a time-limit on the length of detention and whether such noncitizens detained  
9 under this statutory authority have a statutory right to a bond hearing. *See Jennings*, 583 U.S. at  
10 297-303. The Court rejected both arguments, holding that Section 1225(b) mandates detention  
11 during the pendency of removal proceedings and provides no entitlement to a bond hearing. *See*  
12 *id.*, at 303 (“Nothing in the statutory text imposes any limit on the length of detention.”). While  
13 *Jennings* forecloses any statutory or categorical constitutional right to a bond hearing under  
14 Section 1225(b), it did not reach the issue of whether prolonged detention without such a  
15 hearing could, in individual cases, raise a due process concern.

16 Courts in this District analyze this issue using a multi-factor test. *See Banda v.*  
17 *McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019). In *Banda*, the district court  
18 found that the petitioner’s 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had  
19 become unreasonable. *Id.*, at 1117-121. To conduct this analysis, the court analyzed six factors:  
20 (1) length of detention; (2) how long detention is likely to continue absent judicial intervention;  
21 (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the  
22 petitioner; (5) the nature and extent of any delays caused by the government; and (6) the  
23 likelihood that the final proceedings will culminate in a final order of removal. *See id.*

**B. Petitioner Kevin Alexander Quinonez Torres**

Petitioner is a native and citizen of Guatemala, who entered the United States on August 23, 2019, when he was fifteen years old. Collins Decl., Exh. A, 2019 I-213; Exh. B, Warrant of Arrest. Upon entry, Petitioner was apprehended by United States Border Patrol. *Id.* The following day, on August 24, 2019, DHS issued Petitioner a Notice to Appear (“NTA”) charging him with being removable from the United States pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”), for having entered the United States without being admitted or paroled. Collins Decl., Exh. C, 2019 NTA. Petitioner was processed as an unaccompanied child and on September 27, 2019, was released from government custody on his own recognizance, to his brother. Collins Decl. Exh. D, ORR release.

After release, Petitioner applied for Special Immigrant Juvenile Status (“SIJS”) with United States Citizenship and Immigration Services (“USCIS”) and was granted SIJS on September 6, 2023. Collins Decl. Exh. E, SIJ Approval. USCIS placed Petitioner in deferred action for a period of four years. *Id.* Petitioner, through counsel, filed a motion to terminate with the Immigration Court, and on November 12, 2024, the Immigration Judge terminated Petitioner’s removal proceedings without prejudice. Collins Decl. Exh. F, IJ Order. Less than one week later, Petitioner was arraigned in Framingham District Court in Framingham, Massachusetts for the offense of assault and battery on a family or household member. These charges are still pending. Collins Decl. Exh. G, 2025 I-213, at p. 4.

Because Petitioner incurred a new criminal charge, on March 4, 2025, Immigration Customs Enforcement (“ICE”) located and arrested Petitioner based on a new arrest warrant. *Id.*; Collins Decl., Exh. H, 2025 I-200. That same day, ERO served Petitioner with a new NTA, charging Petitioner with removability pursuant to INA § 212(a)(6)(A)(i), because he entered the United States without being admitted or paroled. Collins Decl., Exh. I, 2025 NTA.

On July 9, 2025, Petitioner appeared before the Immigration Judge for a bond hearing. Collins Decl., Exh. J, Bond Order. The Immigration Judge denied Petitioner's bond for lack of jurisdiction, based on his mandatory detention under INA § 235(b). *Id.* In the alternative, the IJ found Petitioner could be released from custody on a \$4,000 bond. *Id.* Petitioner appealed this decision to the Board of Immigration Appeals ("BIA"). On July 11, 2025, the Immigration Judge denied Petitioner all forms of relief and ordered Petitioner removed; Petitioner appealed this decision to the BIA and the appeal remains pending.

#### IV. ARGUMENT

##### A. Petitioner is lawfully detained under 8 U.S.C. § 1225(b).

While acknowledging the decision in *Del Valle Castillo v. Wamsley*, No. 2:25-CV-02054-TMC, 2025 WL 3524932, at \*5 (W.D. Wash. Nov. 26, 2025), Federal Respondents continue to believe Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*, --- F. Supp. 3d ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same).

Congress intended for all applicants for admission to be detained during the course of their removal proceedings. *See Jennings*, 583 U.S. at 299 (interpreting the "plain meaning" of sections 1225(b)(1) and (2) to mean that applicants for admission be mandatorily detained for the duration of their immigration proceedings). The plain language of the statute is clear: Petitioner is subject to detention under Section 1225(b) because he is an applicant for admission. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). Section 1225(b)(1) indisputably requires the mandatory detention of arriving aliens for the duration of their credible fear determination and removal proceedings, even if they are subsequently paroled. 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 1001.1(q). Section 1225(b)(2)(A) requires mandatory

1 detention of “an alien who is an applicant for admission, if the examining immigration officer  
2 determines that an alien seeking admission is not clearly and beyond a doubt entitled to be  
3 admitted[.]” 8 U.S.C. § 1225(b)(2)(A). The INA specifies that “[a]n alien present in the United  
4 States who has not been admitted . . . shall be deemed for purposes of this Act an applicant for  
5 admission.” 8 U.S.C. § 1225(a)(1).

6 An individual with SIJ status is not considered to have been “admitted” to the United  
7 States. *Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025). Petitioner also does not  
8 dispute that he is a noncitizen present in the United States who has not been admitted. Dkt. 1, Pet.  
9 at ¶ 67. Thus, Petitioner is an “applicant for admission” and subject to mandatory detention under  
10 Section 1225(b).

11 **B. Petitioner’s detention comports with due process.**

12 Petitioner incorrectly argues that he was entitled to additional process before he was  
13 taken into ICE custody, on a new arrest warrant, and upon service of a new Notice to Appear.

14 As an initial matter, Petitioner was not “re-detained” as is alleged and argued. Dkt. 1,  
15 Pet., ¶¶ 3, 7, 55-71. On November 12, 2024, the Immigration Judge terminated Petitioner’s first  
16 removal proceedings without prejudice. Collins Decl., Exh. X, IJ Order. After that, Petitioner  
17 was no longer in removal proceedings. It was not until after Petitioner was charged with battery,  
18 that ICE arrested Petitioner on May 4, 2025, based on a *new* arrest warrant, and served  
19 Petitioner with a *new* Notice to Appear, and thereafter commenced removal proceedings against  
20 Petitioner. Importantly, this was not a reopening or recalendaring of Petitioner’s prior  
21 proceedings, but rather the beginning of entirely new proceedings altogether. As such, this is  
22 not a case of re-detention, but rather a case of the agency initiating removal proceedings against  
23 an alien charged with being inadmissible.

24 Even if this were construed as a “re-detention,” there is no statutory or regulatory



1 requirement for a hearing before an individual in removal proceedings is re-detained, and the  
2 Supreme Court has warned courts against reading additional procedural requirements into the  
3 Immigration and Nationality Act. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022)  
4 (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6) because  
5 “reviewing courts . . . are generally not free to impose [additional procedural rights] if the  
6 agencies have not chosen to grant them”) (quoting *Vermont Yankee Nuclear Power Corp. v.*  
7 *Natural Resources Defense Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)).

8       Petitioner’s current detention also comports with procedural due process. “Due process is  
9 flexible and calls for such procedural protections as the particular situation demands.” *Mathews*  
10 *v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that Petitioner’s  
11 detention is consistent with his due process rights. Under *Mathews*, “[t]he fundamental  
12 requirement of due process is the opportunity to be heard at a meaningful time and in a  
13 meaningful manner.” *Id.*, at 333 (internal quotation marks omitted). This calls for an analysis of  
14 (1) “the private interest that will be affected by the official action,” (2) “the risk of an erroneous  
15 deprivation of such interest through the procedures used, and probable value, if any, of  
16 additional or substitute procedural safeguards,” and (3) the Government’s interest. *Id.*, at 334-  
17 35.

18       Federal Respondents recognize the “weighty liberty interests implicated by the  
19 Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at  
20 \*11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released  
21 from immigration detention have a protected liberty interest in remaining out of custody, the  
22 weight of that liberty must be considered in the broader picture of the immigration system,  
23 which has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After  
24 all, “[t]he recognized liberty interests of U.S. citizens and aliens are not coextensive: the

1 Supreme Court has ‘firmly and repeatedly endorsed the proposition that Congress may make  
2 rules as to aliens that would be unacceptable if applied to citizens.’” *Rodriguez Diaz v. Garland*,  
3 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the  
4 Supreme Court has explained, “[i]n the exercise of its broad power over naturalization and  
5 immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.”  
6 *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly  
7 “recognized detention during deportation proceedings as a constitutionally valid aspect of the  
8 deportation process.” *Demore*, 538 U.S. at 523.

9 At the time Petitioner was detained, he was present in the United States without any  
10 legal status. *See Murillo-Chavez*, 128 F.4th at 1085 (SIJ is a type of parole that confers  
11 eligibility to adjust status but is not a form of legal status itself). Importantly, ICE’s decision to  
12 arrest Petitioner and commence the instant removal proceedings was based on Petitioner having  
13 incurred a new criminal charge for a violent offense. Given these factor’s Petitioner’s liberty  
14 interest must be considered diminished.

15 Turning to the second *Mathews* factor, the risk of a constitutionally significant  
16 deprivation of Petitioner’s liberty without a pre-deprivation hearing here is minimal. Again,  
17 Petitioner is subject to mandatory detention while his removal proceedings are being resolved,  
18 without the opportunity for a bond redetermination. *Yajure-Hurtado*, 29 I&N Dec. at 220. A  
19 pre-deprivation hearing would be futile as his detention is based on his mandatory detention. An  
20 analysis of Petitioner’s dangerousness or flight risk is not relevant.

21 As for the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews* test  
22 “must account for the heightened government interest in the immigration detention context.”  
23 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the  
24 Ninth Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in



1 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez*  
2 *Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). “This is especially true when it  
3 comes to determining whether removable aliens must be released on bond during the pendency  
4 of removal proceedings.” *Rodriguez Diaz*, 53 F.4th at 1208. Again, ICE arrested Petitioner in  
5 March 2025 and commenced removal proceedings against him based on his new criminal  
6 history and his lack of legal status. Collins Decl. Exh. G, 2025 I-213, at pp. 1, 4. The  
7 government’s interest in detaining individuals unlawfully present in the United States who have  
8 been charged with committing violent crimes to protect the community and enforce its  
9 immigration laws is undeniably heightened.

10 In short, the three *Mathews* factors demonstrate that Petitioner’s detention comports with  
11 procedural due process.

12 **C. Petitioner’s requests for injunctive relief cannot be considered.**

13 In addition to requesting release, Petitioner also requests an order prohibiting ICE from  
14 re-detaining in the future absent written notice and a pre-deprivation hearing. Dkt. 1, Pet. at pp.15-  
15 16. This is a request for injunctive relief and must be denied.

16 “In seeking a permanent injunction, the moving party must convince the court that relief  
17 is needed: ‘The necessary determination is that there exists some cognizable danger of recurrent  
18 violation, something more than the mere possibility which serves to keep the case alive.’”  
19 *Cummings v. Connell*, 316 F.3d 886, 897 (9th Cir. 2003) (quoting *United States v. W.T. Grant*  
20 *Co.*, 345 U.S. 629, 633 (1953)). Nowhere does Petitioner argue that any alleged violation is likely  
21 to recur. *See generally*, Dkt. 1. Accordingly, Petitioner’s request for injunctive relief must be  
22 denied. *Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (“Our  
23 adversarial system relies on the advocates to inform the discussion and raise the issues to the  
24 court.”); *see e.g. Suong v. Bondi*, No. 2:25-CV-02309-LK, 2025 WL 3718644, at \*6 (W.D. Wash.

1 Dec. 23, 2025) (denying petitioner's request for injunctive relief relating to restricting conditions  
2 of re-detention pursuant to the party presentation doctrine, because petitioner failed to raise the  
3 argument in habeas petition).

4 **V. CONCLUSION**

5 Because Petitioner has not demonstrated by a preponderance of the evidence that "the fact  
6 or duration of his confinement" violates any law, habeas relief must be denied. *Preiser v.*  
7 *Rodriguez*, 411 U.S. 475, 489 (1973).

8 Alternatively, if the Court finds otherwise, the appropriate remedy in this case is not an  
9 order of release, as Petitioner requests. Instead, the appropriate remedy would be to order  
10 Petitioner be released upon payment of the bond alternatively ordered by the Immigration Judge.  
11 *See Del Valle Castillo v. Wamsley*, 2025 WL 3524932, at \*8; *see also Vieira v. De Anda-Ybarra*,  
12 No. EP-25-CV-00432-DB, 2025 WL 2937880, at \*7 (W.D. Tex. Oct. 16, 2025) (concluding that  
13 detention violated the petitioner's procedural due process rights, district court declined  
14 petitioner's request for immediate release and instead order bond hearing before immigration  
15 judge).

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2 DATED this 22nd day of January, 2026.

3 Respectfully submitted,

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16 *Attorneys for Federal Respondents*

17 *I certify that this memorandum contains 2,789*  
18 *words, in compliance with the Local Civil Rules*