

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:26-60133-CIV- SINGHAL

DJIBRIL DANSOKO,

Petitioner,

v.

**KRISTI NOEM, in her Official Capacity,
Secretary of the U.S. Department of
Homeland Security, in her Official Capacity, et al.,**

Respondents.

**RESPONDENT'S RESPONSE/OPPOSITION TO PETITIONER'S SUPPLEMENTAL
BRIEF**

Respondents file this response/opposition to Petitioner's supplemental brief [DE 9] that Petitioner's continued detention without a bond hearing does not violate the Fifth Amendment's Due Process Clause.

ARGUMENT¹

I. Petitioner's Detention Does Not Violate Due Process

Petitioner's constitutional claims fail as a matter of law. Mandatory detention under § 1225(b) has repeatedly been upheld as constitutionally permissible. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018) at 299–301. The Fifth Amendment does not require bond hearings for noncitizens detained pursuant to valid statutory authority, nor does Petitioner possess a protected liberty interest in release on bond where Congress has mandated detention. The Due Process

¹ Respondents note that at the hearing of this matter, this Court granted Petitioner leave to file supplemental briefing related to alleged "new case law from Texas" that was released subsequent to the Fifth Circuit decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 25-40701, ___ F. 4th ___, 2026 WL 323330 (Feb. 6 2026 5th Cir.), supporting his due process argument. Respondents, however, do not see any caselaw decided after the Fifth Circuit decision referenced above in Petitioner's supplemental briefing.

Clause does not prohibit Congress from imposing categorical detention rules in the immigration context. *See Demore v. Kim*, 538 U.S. 510, 528 (2003).² Further, this Court has previously held that mandatory detention does not violate Petitioner’s due process rights. *See Iraheta Morales v. Noem*, Case No. 25-62598-CIV-SINGHAL, D.E. 10 (S.D. Fla. Jan. 29, 2026) (“Petitioner’s detention is part of the deportation process and therefore does not – absent some further showing – amount to a deprivation of due process.”)

Petitioner’s reliance on *Zadvydas v. Davis* too is misplaced. To the extent that Petitioner argues that his detention violates his Due Process rights, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) (ECF No. 1 at ¶¶ 75-81), this Court should reject that claim because *Zadvydas* governs post-removal-order detention under § 1231, not pre-removal detention under § 1225.

A. Balancing Test in *Mathews v. Eldridge* Does Not Apply

Petitioner discusses three distinct factors based on *Mathews v. Eldridge* but misconstrues its application in the instant case. The first factor Petitioner argues should be considered is “the private interest that will be affected by the official action.” [D.E. 9 at pg. 3]” Specifically, Petitioner cites that Courts have held that once released from immigration custody, noncitizens acquire a “protectable liberty interest in remaining out of custody on bond.” *See Lopez-Arevelo v. Ripa*, 3:25-CV00337-KC, 2025 WL 2691828 at *11 (W.D. Tex. Sept. 22, 2025). However, the Court in *Demore* “recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*, 538 U.S. at 523. Moreover, this Court cited to the *Demore* case, in its decision in *Iraheta Morales v. Noem*, Case No. 25-62598-CIV-SINGHAL,

² To the extent that Petitioner argued that a material change is a precondition to revocation of OREC and detention, 236(b) belies that.

D.E. 10 (S.D. Fla. Jan. 29, 2026). As discussed above, this Court held that the “Petitioner’s detention is part of the deportation process and therefore does not—absent some further showing—amount to a deprivation of due process. Petitioner fails to make such a showing.” *Id.* (concluding that habeas petitioner who entered the United States without inspection in 2004 is an “applicant for admission” governed by 8 U.S.C. § 1225(b) and rejecting petitioner’s argument the government must grant a bond hearing under 8 U.S.C. § 1226). Like the Petitioner in *Iraheta Morales v. Noem*, et al., the Petitioner here has failed to make a showing that his detention does not violate Due Process.

As to the second Factor in *Mathews*, “the [g]overnment’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335. Petitioner states that Respondents have diluted their own interest by deciding to “release Petitioner on his own recognizance once before.” *See* [DE 5-2], and that “there are no facts to in the record to suggest that Petitioner’s actions have materially changed as he has not failed to appear before immigration authorities, nor he has acquired a criminal record.” [DE 9 at pg. 5]. However, the government’s interest here goes beyond any fiscal or administrative burdens. Rather the government’s interest here is geared towards safety and flight risks. The Supreme Court in *Zadvydas* and *Demore* has recognized that preventing flight is permissible for purposes of civil detention. *See* [DE 1 at 9] (citing *Zadvydas*, 533 U.S. at 990, and *Demore*, 538 U.S. at 528)). Moreover, the Court in those cases did not limit the government’s legitimate detention objectives to combat those evils. *See Zadvydas*, 533 U.S. at 990 (explaining that the government proffered reducing flight risk and community danger as the bases for detention); *Demore*, 538 U.S. at 528 (noting detention prevents flight). Therefore, Respondents have a significant interest in the continued proper detainment of Petitioner.

Lastly, as to the third factor, Petitioner cites to in *Mathews*, as it relates to Petitioner's case, Section 1225(b)(2) as applied creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement pending resolution of his removal proceedings. [DE 9 at pg. 5]. Petitioner goes on to say that the "risk lies in the continued deprivation of liberty for a noncitizen who has already been determined to not be a flight risk nor a danger to the community." *Id.* In citing to *Demore*, this Court in *Iraheta Morales v. Noem*, et al., held the government need not conduct individualized bond hearings to determine individualized flight risk; instead, it may constitutionally mandate detention of aliens in removal proceedings to combat flight. *See Demore*, 538 U.S. at 528 (upholding section 1226(c)'s mandatory-detention-without-bond scheme against challenge that alien detainees had a due process right to individualized bond hearings to determine flight risk). As a result, like the Petitioner in *Iraheta Morales v. Noem*, Petitioner in the instant case has failed to identify a due process violation.

CONCLUSION

For the foregoing reasons, there is no due process violation here, Petitioner is properly detained under 8 U.S.C. § 1225(b)(2), and the Petition should be denied.

Respectfully submitted,

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