IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS JAVIER VASQUEZ DIAZ	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 2:26-cv-342
	:	
MICHAEL ROSE ET AL.,	:	
	:	
Respondents.	:	

RESPONSE IN OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS

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Dated: February 2, 2026

I. INTRODUCTION

Petitioner seeks a writ of habeas corpus, challenging the authority of the Secretary of the U.S. Department of Homeland Security (DHS) to detain him under the Immigration and Nationality Act (INA), 8 U.S.C. § 1225(b)(2). **This petition is distinguishable from the numerous petitions recently considered by this Court in the wake of the Board of Immigration Appeals' (BIA) decision in *Matter of Hurtado*, 29 I & N Dec. 216 (BIA 2025), which, despite Petitioner's representations, is not implicated here.**[1] *See e.g., Cantu-Cortes v. O'Neill, et al.*, No. 25-cv-6338, 2025 WL 3171639, at *1-2 (E.D. Pa. Nov. 13, 2025) (Kenney, J.); *Anirudh v. McShane, et al.*, No. 25-cv-6458 (E.D. Pa. Dec. 8, 2025) (Bartle, J.); *Juarez Velazquez v. O'Neill, et al.*, No. 25-cv-6191 (E.D. Pa. Dec. 3, 2025) (Henry, J.); *but see Talabadze v. Rose, No. 26-cv-360* (E.D. Pa. Jan. 30, 2026). **Specifically, as an alien initially processed for expedited removal, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1), rather than 1225(b)(2). The cases cited above and by Petitioner did not involve aliens like Petitioner who were initially processed for expedited removal upon their entry into the United States. That Petitioner is no longer in expedited removal proceedings does not change the statutory basis for detention.**

DHS processed Petitioner for expedited removal pursuant to 8 U.S.C. § 1225(b)(1) after he entered the United States without inspection on January 26, 2023. *See* ECF 1-3; *see also* Ex. A – Form I-213, Record of Deportable/Inadmissible Alien, January 26, 2023. However, Petitioner claimed a fear of return to his home country on September 26, 2025. *See* Ex. B – Form I-213, Record of

[1] Similarly, the claims here would not implicate the recent class-certification and partial-summary-judgment rulings issued by the U.S. District Court for the Central District of California. *See Bautista v. Santacruz*, 2025 WL 3289861, *4 (C.D. Cal. Nov. 20, 2025) (addressing arguments that 8 U.S.C. § 1226, not § 1225, should apply to detention claims).

Deportable/Inadmissible Alien (January 13, 2026) and DHS placed him into removal proceedings under 8 U.S.C. § 1229a. *See* Ex. C – Notice to Appear, January 26, 2026. This parole has since terminated, meaning Petitioner has now returned to his detention status at the time of his parole—*i.e.*, mandatory detention under § 1225(b)(1)—during the remainder of his removal proceedings under § 1229(a). Thus, Petitioner's detention comports with the INA, the bond regulations, and the Constitution, and the Court should accordingly deny the petition for a writ of habeas corpus.

II. DETENTION FRAMEWORK UNDER THE INA

The INA provides a statutory scheme for the civil detention of aliens pending a decision during removal proceedings, as well as once a final order of removal has been entered. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The time and circumstances of entry, as well as the stage of the removal process, determines where an alien falls within this scheme and whether detention of the alien is discretionary or mandatory.

a. Applicants for Admission and Expedited Removal

An applicant for admission to the United States is defined 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). As explained by the Supreme Court, "an alien who tries to enter the country illegally is treated as an 'applicant for admission,' and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry' into the United States." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Put differently,

an "alien who arrives at a 'port of entry,' *i.e.* a place where the alien may lawfully enter, must apply for admission. An alien [] who is caught trying to enter at some other spot is treated the same way." *Id.* at 108. Such applicants for admission, "even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border.'" *Id.* at 139 (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). Pursuant to 8 U.S.C. § 1225, immigration officials have discretion to place aliens arriving in the United States in either expedited removal proceedings under Section 1225(b)(1) or full removal proceedings under 8 U.S.C. § 1229a. Under either approach, § 1225 authorizes detention of such individuals "throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018); *but see Talabadze v. Rose, No. 26-cv-360* (E.D. Pa. Jan. 30, 2026).

In 1996, Congress amended § 1225(b) to add "expedited removal" procedures for certain applicants for admission. Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104208, Tit. III, § 302(a), 110 Stat. 3009-579 (1996); *see also Thuraissigiam*, 591 U.S. at 109–11 (describing the expedited removal process). Section 1225(b)(1) now provides that an applicant for admission is subject to expedited removal if the applicant is: (i) inadmissible because he or she lacks valid documents or is inadmissible due to fraud; (ii) has not "been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility"; or (iii) is among those whom the

Secretary of DHS has designated for expedited removal. For these individuals, once an immigration officer determines that they are inadmissible, the officer must "order the alien removed from the United States without further hearing." 8 U.S.C. § 1225(b)(1)(A)(i); *Thuraissigiam*, 591 U.S. at 109.

b. Credible Fear Determinations

If, however, the alien expresses a fear of persecution or torture in their home country, an asylum officer must determine whether the alien has a credible fear. *See* 8 U.S.C. §§ 1225(b)(1)(A)(ii) & (B); 8 C.F.R. §§ 208.30, 235.3(b)(4). If an asylum officer makes a positive finding of credible fear, the individual is placed into removal proceedings to pursue asylum under 8 U.S.C. § 1229a. *Id.*

As explained by the Supreme Court, "[a]n alien subject to expedited removal thus has an opportunity at three levels to obtain an asylum hearing, and the applicant will obtain one unless the asylum officer, a supervisor, and an immigration judge all find that the applicant has not asserted a credible fear." *Thuraissigiam*, 591 U.S. at 110-11 ("As a practical matter, then, the great majority of asylum seekers who fall within the category subject to expedited removal do not receive expedited removal and are instead afforded the same procedural rights as other aliens."). An individual subject to expedited removal under § 1225(b)(1), however, including an individual undergoing further review of their asylum claim, "is not entitled to immediate release" regardless of whether their asylum claim is reviewed fully or in an expedited manner. *Id.* at 111. *Jennings,* 583 U.S. at 302. Rather, § 1225(b)(1)(B)(iii)(IV) provides for mandatory detention of individuals

during the credible fear review process and until removal from the United States. ("Any alien subject to the procedures under this clause *shall be detained* pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.") (emphasis added).

c. Parole for Applicants for Admission

While an applicant for admission is not entitled to release or a bond hearing by statute or regulation, the Secretary, acting through Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), has discretion to release applicants for admission from custody on humanitarian parole. *See* 8 U.S.C. § 1182(d)(5). Such a parole is done "temporarily under such conditions as [the Secretary] may prescribe [and] only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. §1182(d)(5)(A).

Parole is not an "admission" to the United States. 8 U.S.C. §§ 1101(a)(13)(B), 1182(d)(5)(A). As noted above, "aliens who arrive at ports of entry—*even those paroled elsewhere in the country for years pending removal*—are 'treated' for due process purposes 'as if stopped at the border.'" *Thuraissigiam*, 591 U.S. at 139 (quoting *Mezei*, 345 U.S. at 215) (emphasis added); *see also Leng May Ma v. Barber*, 357 U.S. 185, 188–90 (1958). In other words, an applicant for admission paroled into the United States "remain[s] constructively detained at the border, *i.e.* legally unadmitted, while their status is being resolved by immigration officials." *Ibragimov v. Gonzales*, 476 F.3d 125, 134 (2d Cir. 2007); *see also Duarte v. Mayorkas*, 27 F.4th 1044, 1059 (5th Cir. 2022) ("[A] paroled alien is legally equivalent to an alien that is

held in custody at the border while their application for admission is processed.").

ICE may terminate a parole under §1182(d)(5)(A) when, "in the opinion of the Secretary of Homeland Security, "the purposes of such parole . . . have been served." 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i). As one example, when a Notice to Appear (NTA)—the charging document that initiates proceedings—is served on the parolee, this serves as written notice of termination of parole. *See Matter of Arambula-Bravo*, 28 I & N Dec. 388, 395 (BIA 2021) ("A charging document presumptively terminates parole because an intent to remove a noncitizen necessarily reflects a determination that the continued presence of that individual is no longer warranted."). No pre-termination hearing is required. *See Ofosu v. McElroy*, 98 F.3d 694, 700 (2d Cir. 1996) (explaining that parole "may be ended without hearings or special forms."); *Ahrens v. Rojas*, 292 F.2d 406, 410 (5th Cir. 1961) ("Neither the statute nor the regulation provides for a hearing on revocation of parole."). Further, at the expiration of the time for which parole was authorized, "[p]arole shall be automatically terminated without written notice." 8 C.F.R. § 212.5(e)(1)(ii).

d. Return to Custody After Parole Expiration or Termination

After parole is terminated, "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall *continue to be dealt with in the same manner as that of any other applicant for admission* to the United States." 8 U.S.C. § 1182(d)(5)(A) (emphasis added); 8 C.F.R. § 212.5(e)(2)(i) (explaining that after automatic termination, the alien "shall be

restored to the status that he or she had at the time of parole"). Once parole is terminated, "[a]ny further inspection or hearing shall be conducted under section 235 [8 U.S.C. § 1225] or 240 [8 U.S.C. § 1229a] of the Act." 8 C.F.R. § 212.5(e)(2)(i); *see Ahrens*, 292 F.2d at 410 (noting that after parole termination, "the plaintiff's status was the same as if he had been stopped at the border."). The grant of parole and its termination is committed to the broad discretion of the Secretary. *See Samirah v. O'Connell*, 335 F.3d 545, 549 (7th Cir. 2003) (holding DHS's authority to "grant or revoke" parole under § 1182(d)(5)(A) is a matter of agency discretion barred from review by § 1252(a)(2)(B)(ii)); *Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010) (same).

III. FACTUAL AND PROCEDURAL HISTORY

Petitioner, a native and citizen of the Dominican Republic, entered the United States without inspection on or about January 26, 2023. *See* Ex. C. Given his time, manner, and place of entry, CBP determined that Petitioner was inadmissible to the United States and thereafter placed him into expedited removal proceedings. Ex. A. However, subsequently Petitioner filed for affirmative relief based on a fear of returning to the Dominican Republic and DHS issued him a Notice to Appear placing him into removal proceedings under 8 U.S.C. § 1229a. Ex. B, and Ex. C. ICE subsequently detained Petitioner on January 13, 2026. *Id.*

IV. LEGAL STANDARD

A writ of habeas corpus is an "extraordinary remedy." *Shinn v. Ramirez*, 596 U.S. 366, 377 (2022). The petitioner bears the burden of showing his confinement is

unlawful. *Hawk v. Olson*, 326 U.S. 271, 279 (1945); *accord Cullen v. Pinholster*, 563 U.S. 170, 181 (2011) (habeas petitioner "carries the burden of proof"); *see also* 28 U.S.C. § 2241.

Judicial review of immigration matters, including of detention issues, is limited. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *Reno v. Am.-Arab Anti-Discrimination Comm.* (*AADC*), 525 U.S. 471, 489–92 (1999); *Miller v. Albright*, 523 U.S. 420, 434 n.11 (1998); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Reno v. Flores*, 507 U.S. 292, 305 (1993); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) ("[T]he power over aliens is of a political character and therefore subject only to narrow judicial review."). The Supreme Court has "underscore[d] the limited scope of inquiry into immigration legislation," and "has repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo*, 430 U.S. at 792 (internal quotation omitted); *Mathews v. Diaz*, 426 U.S. 67, 79–82 (1976); *Galvan v. Press*, 347 U.S. 522, 531 (1954).

The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is

necessarily a part of this deportation procedure."); *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018) ("Congress has authorized immigration officials to detain some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives immigration officials time to determine an alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

Petitioner must make a strong showing to demonstrate that his continued detention violates the Constitution or laws of the United States. *See U.S. v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) ("This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power").

V. ARGUMENT

As discussed below, Petitioner's detention is authorized by statute, regulation, and comports with the Constitution and the Administrative Procedures Act. As such, this Court should deny the petition for a writ of habeas corpus.

a. Petitioner's Detention is Authorized by 8 U.S.C. § 1225(b)(1)

Petitioner's argument that his detention violates the INA and accompanying regulations is without merit because ICE's current detention of Petitioner is

authorized and, indeed, mandated by statute. Petitioner attempted to enter the United States without inspection in 2024 and was not inspected, admitted, or paroled by an immigration officer at the time of that entry. ECF No. 1 ¶ 2; Ex. B. Petitioner was therefore an "applicant for admission" and was accordingly processed for expedited removal under § 1225(b)(1)(A)(i). *See* Ex. A. That Petitioner was initially processed for expedited removal is confirmed through the Form I-860, Notice and Order of Expedited Removal, submitted at Exhibit C, as well as the NTA attached to the Petition, which checks the box specifying that the Order was vacated pursuant to 8 C.F.R. § 208.30, the credible fear determination process. *See* ECF 1-3.

However, the fact that Petitioner is no longer in expedited removal proceedings does not preclude continued detention under § 1225(b)(1). To the contrary, when Petitioner claimed a fear of returning to Dominican Republic, he triggered the § 1225(b)(1)(B) process, which includes a referral to the United States Citizenship and Immigration Services (USCIS) for a credible fear interview and further (full removal) proceedings to consider Petitioner's application for asylum. 8 U.S.C. § 1225(b)(1)(B); Exh B. Until his removal proceedings under § 1229a are complete, which includes adjudication of his application for asylum application, or until he withdraws his application for admission pursuant to 8 U.S.C. § 1225(a)(4), Petitioner remains in this process. And, Congress has mandated that anyone going through this process "shall be detained pending a final determination of credible fear and persecution and, if found not to have such a fear, until removed." *Id* § 1225(b)(1)(B)(ii); *see also id.* § 1225(b)(1)(B)(iii)(IV); *Jennings*, 538 U.S. at 297, 302

(section 1225(b)("mandate[s] detention of applicants for admission until proceedings have concluded."

Importantly, ICE's release of Petitioner on parole pursuant to 8 U.S.C. § 1182(d)(5) does not prelude detention under § 1225(b)(1)(B)(ii). Petitioner may try to argue that he is not subject to mandatory detention under § 1225(b)(1) because he has been paroled into the United States. *See* § 1225(b)(1)(A)(iii)(II) (applying the expedited removal provisions to certain other aliens "who have not been admitted or paroled into the United States"). However, the Court should reject this argument because the DHS Secretary's 2004 Expedited Removal Designation makes clear that this language applies only to certain categories of aliens who were admitted or paroled into the United States *following inspection by an immigration officer at a designated port-of-entry*. *See* Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877 (Aug. 11, 2004) (emphasis added); *see also* 8 U.S.C. § 1225(b)(1)(A)(iii)(I) (allowing the DHS Secretary to designate certain aliens for expedited removal and clarifying that this designation "shall be in the sole and unreviewable discretion" of the DHS Secretary). In this case, Petitioner admits to entering the United States without inspection and is charged on his NTA as being present in the United States without admission or parole. *See* ECF 1-3, Ex. C. Following this unlawful entry, DHS made the discretionary decision to parole Petitioner from its custody under § 1182(d)(5)(A). Importantly, this parole did not occur following inspection by an immigration officer at a designated port of entry. Therefore, Petitioner remains subject to the expedited removal provisions at § 1225(b)(1) and, in turn, mandatory

detention.

Nor does ICE's release of Petitioner on parole pursuant to 8 U.S.C. § 1182(d)(5) convert DHS's detention authority from § 1225(b)(1) to § 1226 because, as noted above, parole "shall not be regarded as an admission of the alien." *Id.* § 1182(d)(5)(A). Rather, Congress was very explicit: "when the purposes of such parole have been served[,] the alien shall forthwith return or *be returned to the custody from which he was paroled* and thereafter his case shall continue to be dealt with *in the same manner as that of any other applicant for admission* to the United States." *Id.* (emphasis added). Regardless of the length of his parole, Petitioner remains "'treated' for due process purposes 'as if stopped at the border.'" *Thuraissigiam*, 591 U.S. at 139–40 (noting that "even those paroled elsewhere in the country for years" "cannot be said to have 'effected an entry' and remain "on the threshold."). Petitioner therefore remains subject to the same detention authority (§ 1225(b)(1)) until his claim for asylum is fully adjudicated and he is either granted asylum or removed. *See Jennings*, 583 U.S. at 302; *Thuraissigiam*, 591 U.S. at 111; 8 U.S.C. § 1225(b)(1)(B)(ii).

That Petitioner is properly detained under § 1225(b)(1) receives further support from the Attorney General's decision in *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019). In *M-S-*, the Attorney General overruled as wrongly decided an earlier BIA case, *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005), in which the BIA held that aliens transferred to full proceedings after establishing a credible fear were eligible for bond. 27 I& N Dec. at 513–14. The Attorney General explained that, by its plain

language, applicants for admission transferred to full removal proceedings after establishing a credible fear remain ineligible for bond. *Id.* at 515. Instead, this category of applicants for admission "must be detained until [their] removal proceedings conclude, unless [they] are granted parole." *Id.* at 509.

The BIA's decision in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), builds upon the Attorney General's holding in *M-S-*. For aliens like Petitioner who are placed into expedited removal proceedings and later referred to an immigration judge for consideration of their asylum application, the BIA affirmed that § 1225(b)(1)(B)(ii) mandates their detention until the final adjudication of their asylum application, unless that alien is granted parole. *Id.* at 68 (citing *M-S-*, 27 I&N Dec. at 516). If that parole is granted and later terminated, the BIA held that the alien is then returned to custody under § 1225(b) pending completion of removal proceedings. *Id.* at 70. Thus, the termination of Petitioner's parole—either through issuance of the NTA or expiration of his period of authorized parole—returned him to his initial custody status upon entry, *i.e.,* mandatory detention pursuant to § 1225(b)(1)(B)(ii).

To the extent Petitioner is challenging DHS's decision to terminate his parole, the Court lacks jurisdiction to review this decision under 8 U.S.C. § 1252(a)(2)(B), since it is plainly a discretionary "decision or action." *Samirah v. O'Connell*, 335 F.3d 545, 549 (7th Cir. 2003) (holding DHS's authority to "grant or revoke" parole under § 1182(d)(5)(A) is a matter of agency discretion barred from review by § 1252(a)(2)(B)(ii)); *Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010) (same). Moreover, to the extent Petitioner is alleging that revocation of parole

requires a case-by-case analysis, the Court should reject this argument. While 8 U.S.C. § 1182(d)(5)(A) requires that *grants* of parole be made on a case-by-case basis, it contains no parallel language with respect to terminations, and the language of § 1182(d)(5)(A) makes clear that such a determination is left entirely to the "opinion" of the DHS Secretary.

Further, the regulations make clear that no written notice is required prior to terminating a prior discretionary parole decision under § 1182(d)(5)(A). *See* 8 C.F.R. § 212.5(e)(1)(ii) (explaining that parole *shall be automatically terminated without written notice* . . . at the expiration of the time for which parole was authorized . . . in accordance with 8 C.F.R. § 212.5(e)(2), *except that no written notice shall be required*) (emphasis added). Only when termination of parole is not automatic under § 212.5(e)(1)—in other words, when an alien has not departed the United States or the period of parole has not expired—is notice required under § 212.5(e)(2). Accordingly, no notice or formal hearing is required when, as here, the time for which parole was authorized has expired, and the automatic termination of Petitioner's parole was thus lawful.

Petitioner claims that DHS is detaining him pursuant to § 1225(b)(2) in light of the BIA's recent decision in *Hurtado*, 29 I&N Dec. at 216, and DHS's new policy. This is incorrect and misunderstands the facts and procedural history of Petitioner's case. As discussed above, Petitioner was processed for expedited removal upon entry into the United States and was subsequently found to have a credible fear of return to Dominican Republic, thus bringing him within the mandatory detention

authority of § 1225(b)(1). DHS is, quite simply, not detaining him pursuant to § 1225(b)(2) as Petitioner repeatedly claims. Therefore, because Petitioner is properly detained under § 1225(b)(1) and not eligible for a bond hearing, this Court should deny the petition for a writ of habeas corpus.

b. Petitioner's Detention is Constitutional

Petitioner's argument that his detention violates procedural due process also lacks merit. The Supreme Court has long recognized 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." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Further, applicants for admission like Petitioner lack any constitutional due process rights with respect to admission aside from the rights provided by statute: "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned," *Mezei*, 345 U.S. at 212, and, "it is not within the province of any court, unless expressly authorized by law, to review [that] determination." *United States ex. rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950). *See also Thuraissigiam* 591 U.S. at 140 ("[T]he Due Process Clause provides nothing more.").

The Supreme Court reaffirmed "[its] century-old rule regarding the due process rights of an alien seeking initial entry" in *Thuraissigiam*, explaining that an individual who illegally crosses the border—like Petitioner—is an applicant for admission and "has only those rights regarding admission that Congress has provided by statute." 591 U.S. at 139–40. The *Thuraissigiam* Court explained that

"[w]hile aliens who have established connections in this country have due process rights in deportation proceedings, the Court held long ago that Congress is entitled to set the conditions for an alien's lawful entry into this country and that, as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *Id.* at 107.

"When an alien arrives at a port of entry—for example, an international airport—the alien is on U.S. soil, but the alien is not considered to have entered the country." *Id.* at 139. The same "threshold" rule applies to individuals who are apprehended after trying "to enter the country illegally" since by statute, such individuals are also defined as applicants for admission. *Id.* at 139–40. And all applicants for admission, "even those paroled elsewhere in the country for years pending removal," "have no entitlement to procedural rights other than those afforded by statute." *Id.* at 107, 139. And the statute provides no more procedural protections than allowing an applicant for admission to seek relief from removal if he fears return to his home country, and to seek parole from the agency. *Id.* During that process, however, applicants for admission may be detained without a bond hearing pending admission or removal without running afoul of the Constitution. *Demore v. Kim*, 538 U.S. 510, 531 (2003)

Petitioner's recent detention pending his removal proceedings thus does not violate Due Process. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention less than six months presumed constitutional). The Third Circuit has recognized that there may come a time when mandatory civil detention without a

bond hearing becomes unreasonable. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c)). However, at this time, Petitioner does not challenge the reasonableness of his detention under *German Santos*. Therefore, the Court should find that Petitioner's detention is constitutional and deny the petition for writ of habeas corpus.

VI. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the petition for writ of habeas corpus be denied.

Respectfully submitted,

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Dated: February 2, 2026

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Response in Opposition to Petition for Writ of Habeas Corpus via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: February 2, 2026

/s/ Anthony St. Joseph
ANTHONY ST. JOSEPH
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSE MARTINS PEREIRA	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 2:26-cv-508
	:	
JAMAL L. JAMISON, ET AL.,	:	
	:	
Respondents.	:	

Exhibit List

Exhibit A: Form I-213, Record of Deportable/Inadmissible Alien, dated January 26, 2023

Exhibit B: Form I-213, Record of Deportable/Inadmissible Alien, dated January 13, 2026

Exhibit C: Notice to Appear, January 13, 2026.