

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 1:26-cv-20440-RKA

HUMBERTO HERNANDEZ,

Petitioner,

v.

MIAMI FIELD OFFICE DIRECTOR, *et al.*,

Respondents.

RETURN TO PETITION FOR WRIT OF HABEAS CORPUS

Respondents,¹ through the undersigned Assistant U.S. Attorney and pursuant to the Court's *Order to Show Cause* [DE 4], respond to the *Petition for Writ of Habeas Corpus* [DE 1] (the Petition).

OVERVIEW

Petitioner Humberto Hernandez Hernandez (Petitioner) asks the Court to order his release from immigration detention at Krome North Service Processing Center (Krome) or, alternatively, to order Respondents to provide him with a bond hearing. Petition at 12. Petitioner argues that his immigration detention is governed by 8 U.S.C. § 1226(a) and not § 1225(b)(2) as that section was interpreted by the Board of Immigration Appeals (BIA) in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). For the reasons below, the Petition should be denied.²

¹ As argued below, several of the named respondents are not proper parties-defendant to this habeas action and should be dismissed.

² Respondents recognize that numerous district courts, including courts in this district, have rejected the BIA's interpretation of Section 1225(b)(2) as set forth in its *Hurtado* decision, on which the

FACTUAL & PROCEDURAL BACKGROUND

Respondents have carefully reviewed the Petition. In the interest of brevity, they agree that Petitioner's factual and procedural allegations (Petition at ¶¶ 8, 42-44, 46-47)³ accurately reflect his current immigration status and are sufficient for purposes of the Court ruling on the Petition. On these stipulated facts, the Petition presents a pure question of law: whether Petitioner's immigration detention is governed by 8 U.S.C. § 1225(b)(2) or § 1226(a) and, relatedly, whether Petitioner is entitled to a bond hearing in immigration court.⁴

ARGUMENT

The Petition should be denied because Petitioner's detention is lawful. He is currently detained under Section 235(b)(2)(A) of the INA [8 U.S.C. § 1225(b)(2)(A)]. Under Section 1225, "[a]n alien present in the United States who has not been admitted ... shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner entered the United States *without inspection or admission*. Exhibit A at 2-3. Accordingly, under

substantive argument below is premised. *See e.g. Perez v. Parra*, Case No. 25-cv-24820, DE 9 (S.D. Fla. October 27, 2025); *see also* Petition at ¶ 35; *but see* *Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *Morales v. Noem*, No. 25-cv-62598, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026) (Singhal, J.) (denying substantially similar habeas petition, finding petitioner—who had been present in the United States for over 20 years—to still be an "applicant for admission" under the unambiguous language of Section 1225(b)(2)).

Respondents maintain and preserve the argument that Petitioner is an applicant for admission rendering his detention mandatory and governed by Section 1225(b)(2). Respondents note this question is before the Eleventh Circuit in at least two pending appeals. *See Alvarez v. Warden*, No. 25-14065 (11th Cir.); *Perez v. Parra*, No. 25-14075 (11th Cir.).

³ Respondents do not agree with facts set forth in any paragraph of the Petition besides those listed here—in particular Petitioner's allegations regarding family ties, whether he is a flight risk, whether he faces the prospect of "years" in immigration detention, etc. While not stipulated to, these allegations are also not germane to the legal question presented by the Petition.

⁴ Petitioner does not admit in the Petition that he entered the United States without inspection or admission, however, so Respondents provide a copy of his Form I-213, which confirms as much. *See Exhibit A*, at 2-3.

a plain reading of Section 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). See *Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *Morales v. Noem*, No. 25-cv-62598, 2026 WL 236307 at *8 (S.D. Fla. Jan. 29, 2026) (Singhal, J.).

I. Improper parties-defendant must be dismissed

As a preliminary matter, Petitioner has named several improper parties to this suit. Petition, ¶¶ 16-21. But a writ of habeas corpus should “be directed to the person having custody of the person detained.” 28 U.S.C. § 2243. In cases involving physical confinement, Supreme Court precedent confirms that “the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.” *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004).

Petitioner is detained at Krome, a detention facility in Miami-Dade County, Florida. His immediate custodian is Assistant Field Office Director Charles Parra. Accordingly, the only proper respondent to this case is acting AFOD Parra, in his official capacity. He should be substituted as the sole respondent to this action and all other named respondents should be dismissed. See *id.* at 435 (“[I]n habeas challenges to present physical confinement—‘core challenges’—the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.”); see also *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1300 (S.D. Fla. 2020) (Williams, J.) (citing *Padilla* for the proposition that the sole proper respondent to a habeas petition is the official who has custody over the petitioner); *Mayorga v. Meade*, No. 24-cv-22131, 2024 WL 4298815, at *3 (S.D. Fla. Sept. 26, 2024) (Bloom, J.) (substituting as respondent the Assistant Field Director of facility where petitioner was detained because denial of a habeas petition for

failure to name proper respondent would give an unreasonably narrow reading to habeas corpus statute).

II. Petitioner's detention is lawful and does not violate due process

A. Section 1225(b)(2) mandates detention of aliens, like Petitioner, who are present in the United States without having been lawfully admitted

Under the plain language of § 1225(b)(2), the government is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) (“Our analysis begins and ends with the text.”); *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (“As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms.”); *see also Morales*, 2026 WL 236307 at *3-8 (finding the text of Section 1225(b) to be unambiguous and denying habeas relief to a similarly situated petitioner).

Section 1225(a) deems all aliens who either “arrive[] in the United States” or who are “present in the United States [and] who ha[ve] not been admitted” to be “applicant[s] for admission.” 8 U.S.C. § 1225(a)(1). And “admission” under the Immigration and Nationality Act (INA) means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien’s presence in the United States or the alien’s distance from the border.

In turn, Section 1225(b)(2) provides that “an alien who is an applicant for admission” “shall be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statute’s use of the term “shall” makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien’s presence in the country or where in the country the alien is located. Therefore, the statute’s plain text mandates that the government detain all “applicants for admission” who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was “present in the United States” and there is no dispute that he has “not been admitted.” 8 U.S.C. § 1225(a). Moreover, Petitioner cannot establish—and has not even alleged—that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Therefore, the statute mandates Petitioner “be detained for a proceeding under [8 U.S.C. § 1229a].” 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for admission under § 1225(b)(2) are seeking to be legally admitted into the US

As explained above, Petitioner is an “applicant[] for admission” under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an “applicant for admission” is necessarily “seeking admission.” *See Morales*, 2026 WL 236307 at *3-8. Moreover, an alien like Petitioner, who has been identified by immigration authorities as unlawfully present, and who does not choose to voluntarily withdraw their application for admission and depart from the United States, is “seeking admission,” i.e., seeking legal authority to remain in the United States.

1. *The “seeking admission” clause does not negate or otherwise limit the statutorily defined term “applicant for admission”*

Section 1225(b)(2) requires the detention of an “applicant for admission, if the examining officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an “applicant for admission” is a means of “seeking admission”—no additional affirmative step is necessary. In other words, every “applicant for admission” is inherently and necessarily “seeking admission,” at least absent a choice to pursue voluntary withdrawal of their application for admission and immediately depart the United States.

For example, Section 1225(a) provides that “[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected.” 8 U.S.C. § 1225(a)(3) (emphasis added). The word “[o]therwise’ means ‘in a different way or manner[.]’” *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster’s Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) (“or otherwise” means “the first action is a subset of the second action”). Being an “applicant for admission” is thus a particular “way or manner” of seeking admission, such that an alien who is an “applicant for admission” *is* “seeking admission” for purposes of § 1225(b)(2)(A).⁵ No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012) (“[M]any people who are not *actually* requesting permission to enter the United States

⁵ As Section 1225 shows, being an “applicant for admission” is only *one* “way or manner” of “seeking admission,” not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not “applicants for admission” because they are already admitted, but they still may be deemed to be “seeking admission” in some circumstances. *See* 8 U.S.C. § 1101(a)(13)(C).

in the ordinary sense are nevertheless deemed to be ‘seeking admission’ under the immigration laws”). Accordingly, Section 1225(b) unambiguously provides that an alien who is an “applicant for admission” is “seeking admission,” even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. *Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute*

As explained above, an “applicant for admission” is “seeking admission” under Section 1225. The *Morales* court determined that this reading does not create conflict or redundancy with Section 1226. *Morales*, 2026 WL 236307 at *6-8. But to the extent this Court were to disagree and find some level of redundancy, that “is not a license to rewrite” Section 1225 “contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see also Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) (“sometimes drafters do repeat themselves and do include words that add nothing of substance” especially when “the arguably redundant words that the drafters employed ... are functional synonyms” (alterations accepted and emphasis in original)).

Further, “[t]he canon against surplusage is not an absolute rule.” *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). “Redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication.” *Barton*, 590 U.S. at 239. “[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text.” *Id.* Thus, as the Supreme Court explained in *Barton*, “[s]ometimes the better overall reading of a statute contains some redundancy.” *Id.*

Moreover, “the surplusage canon ... must be applied with statutory context in mind” and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

3. *Applicants for admission are seeking admission when they seek to lawfully remain in the US*

Even if this Court finds that “seeking admission” requires some separate affirmative conduct by the alien, an applicant for admission who attempts to avoid removal from the United States—rather than voluntarily withdrawing their application for admission and departing—is “seeking admission.”

Section 1225(b)(2)(A) applies to an alien who is present in the United States unlawfully, regardless of how long the alien has been in the United States. Although the alien may not have been affirmatively seeking admission during those years of illegal presence, Section 1225(b)(2) is not concerned with the alien’s pre-inspection conduct. Rather, the statute’s use of present tense language (“seeking” and “determines”) shows that its focus is a specific point in time—when “the examining immigration officer” is making a “determin[ation]” regarding the alien’s admissibility. 8 U.S.C. § 1225(b)(2)(A). At *that* point, the alien is “seeking” admission into the United States, and that application for admission is a continuing one. *See* The American Heritage Dictionary of the English Language (defining “seek” and “seeking” as “to endeavor to obtain”). Were it otherwise, the applicant would not

attempt to show that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). That inference is confirmed by Section 1225(a)(4), which authorizes an alien to withdraw their application for admission and voluntarily “depart immediately from the United States.” 8 U.S.C. § 1225(a)(4). An applicant who, once placed in removal proceedings, like Petitioner, forgoes that statutory option and instead endeavors to prove admissibility proceedings in which the alien has the “burden of establishing that [he] is clearly and beyond a doubt entitled to be admitted,” *id.* § 1229a(c)(2)(A)—is endeavoring to obtain admission to the United States in the same way someone who is encountered just after crossing the border is attempting to obtain admission to the United States.

C. Section 1226 does not support Petitioner’s argument

Petitioner’s reliance upon, and reference to, 8 U.S.C. § 1226 is unavailing. As shown above, his detention is controlled by Section 1225(b)(2), not Section 1226. *Morales*, 2026 WL 236307 at *3-8.

Sections 1225 and 1226 are separate statutory provisions that provide independent bases for detention and, generally, apply to different groups of aliens. *Id.* While, as explained below, there is some overlap between the aliens subject to detention under the two detention provisions, that overlap does not create a redundancy because the two statutes provide for different bases for release.

Section 1226(a) authorizes the Executive to “arrest[] and detain[]” any “alien” pending removal proceedings. Section 1226(a) provides the detention authority for the significant group of aliens who are *not* deemed “applicants for admission” subject to Section 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable, like those who overstay a visa or lawful permanent residents who engage in

conduct that renders them removable.⁶ Thus, Section 1225(b)(2) is the more specific detention provision. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (“the specific governs the general”). Accordingly, Section 1226(a) does not control Petitioner’s detention.

Section 1226(c) provides for mandatory detention and is an exception to Section 1226(a)’s discretionary detention regime. It requires the Executive to detain “any alien” who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions. *See* 8 U.S.C. § 1226(c)(1)(A)-(E). Petitioner is not alleged to have committed one of the specified offenses, nor to have engaged in terrorism-related actions. Accordingly, he is not detained under Section 1226(c).

1. The government’s reading of Section 1225 comports with congressional intent

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly, the government’s reading of the statute is not only supported by the express language of Section 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to a result “that Congress designed the Act to avoid”); *New York State Dep’t of Soc. Servs. v. Dublino*, 413 U.S.

⁶ The detention of any of the millions of aliens who have overstayed their visas is governed by § 1226(a), because those aliens (unlike Petitioner) *were* lawfully admitted to the United States.

405, 419-20 (1973) (“We cannot interpret federal statutes to negate their own stated purposes.”).

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically “entered” the United States. *Hurtado*, 29 I. & N. Dec. at 222-223 (citing 8 U.S.C. §§ 1225(a); 1251 (1994)); see *Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). “Entry” referred to “any coming of an alien into the United States,” 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) “dictated what type of [removal] proceeding applied” and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA’s prior framework, which distinguished between aliens based on physical “entry,” had

the ‘unintended and undesirable consequence’ of having created a statutory scheme where aliens who entered without inspection ‘could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,’ including the right to request release on bond, while aliens who had ‘actually presented themselves to authorities for inspection ... were subject to mandatory custody.

Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att’y General of U.S.*, 693 F.3d 408, 413 n.5 (2012)); see also *Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) (“House Rep.”) (“illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection”).

Congress discarded that regime through enactment of IIRIRA. Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, IIRIRA replaced the prior focus on physical “entry” and instead made lawful “admission” the governing touchstone. IIRIRA defined “admission” to mean “the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner’s interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law, but grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner’s interpretation. *King*, 576 U.S. at 492 (rejecting “petitioners’ interpretation because it would ... create the very [thing] that Congress designed the Act to avoid”). The government’s reading, on the other hand, is true to Congress’s intent and should be adopted.

2. *The government's reading of Section 1225 accords with Jennings*

The government's interpretation is also consistent with the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to "impos[e] an implicit 6-month time limit on an alien's detention" under Section 1225(b) and Section 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to Section 1225(b) or Section 1226. Nonetheless, consistent with the government's reading, the Court recognized that Section "1225(b)(2) serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* at 287.

D. Under *Loper Bright*, the statute controls, not prior agency practice

Any argument that prior agency practice of applying Section 1226(a) to aliens like Petitioner, *see* Petition at ¶¶ 28-30, is unavailing because under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 411 (2024), the plain language of the statute and not prior agency practice controls. *Hurtado*, 29 I. & N. Dec. at 225–26. In overturning *Chevron* deference, the Supreme Court recognized that courts often change precedents and "correct[] our own mistakes." *Loper Bright*, 603 U.S. at 411. *Loper Bright* overturned a decades old agency interpretation of the Magnuson-Stevens Fishery Conservation and Management Act that itself predated IIRIRA by twenty years. *Id.* at 380. Thus, longstanding agency practice carries little, if any, weight under *Loper Bright*.

E. Petitioner's detention does not violate due process

Petitioner also argues his mandatory detention violates his due process rights. Petition at ¶¶ 53-55. Not so. First, the only authority Petitioner relies on for this proposition is *Zadvydas*

v. Davis, 533 U.S. 678 (2001). As an initial matter, *Zadvydas* addressed due process concerns with *post-order of removal* detention under 8 U.S.C. § 1231—not at issue here. Second, even if the *Zadvydas* framework did apply to this case, then the Petition would necessarily be premature as Petitioner was detained for less than the presumptively reasonable six-month removal period at the time the Petition was filed. See Petition at ¶ 43 (indicating Petitioner was initially detained in December of 2025); see also *Akinwale v. Ashcroft*, 387 F.3d 1050, 1051-52 (11th Cir. 2002) (holding the six-month presumptively reasonable removal period must have expired at the time a habeas petition is *filed* for a petitioner to state a claim under *Zadvydas*).

Rather, as noted in *Morales*, the Supreme Court’s decision in *Demore v. Kim*, 538 U.S. 510, 516–17 (2003)—a mandatory detention case—provides the better constitutional framework for analyzing Section 1225. *Morales*, 2026 WL 236307 at *9. In *Demore*, the Supreme Court held, among other things, that the government need not conduct individualized bond hearings to determine individualized flight risk for aliens subject to mandatory detention; instead, it may generally mandate detention of aliens in removal proceedings to combat flight without offending the constitution. *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). Moreover, the *Demore* court held, broadly, that “detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process.” *Id.* at 523. Applying *Demore* (and the constitutional considerations at issue in *Zadvydas*, although noting that case to be less instructive), the *Morales* court ruled that (1) Petitioner’s *five-month detention* was shorter than the six months found permissible in *Demore*; and (2) “Petitioner’s detention

is part of the deportation process and therefore does not—absent some further showing—amount to a deprivation of due process.” *Morales*, 2026 WL 236307 at *9.

So too, here. Like the petitioner in *Morales*, Petitioner has not sufficiently alleged or shown a constitutional violation. His allegations in this regard are generally vague and conclusory. Petition at ¶¶ 53-55. He’s also been detained for less than three months to the extent he relies on *Zadvydas*, and therefore fails to state a claim thereunder. But, in any event—and assuming the Court agrees that Section 1225(b)(2) governs Petitioner’s detention—*Demore* instructs that no due process violation has occurred here.

CONCLUSION

Because Petitioner’s detention is lawful, constitutional, and, in fact, mandated by Section 1225(b)(2), Respondents request that the Court deny all relief sought in the Petition.

Respectfully submitted,

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