IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

GURLAL SINGH SINGH, Petitioner, v. MARY DE ANDA-YBARRA, *et al.*, Respondents.	)	Case No. CIV-26-128-J

RESPONSE IN OPPOSITION TO THE PETITION FOR WRIT OF HABEAS CORPUS

Respectfully submitted,

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Pursuant to the Court's January 30, 2026 Order (Doc. 6), Respondents United States Attorney General Pamela Bondi, United States Secretary of the Department of Homeland Security Kristi Noem, U.S. Department of Homeland Security ("DHS"), and Field Office Director of Enforcement and Removal Operations, Dallas, Texas, Mary De Anda-Ybarra[1] (collectively, "Respondents")[2] hereby respond to the Petition for Writ of Habeas Corpus[3] (Doc. 1). Petitioner is challenging DHS's decision to detain him pursuant to 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. 1226(a). Respondents acknowledge this Court's ruling in *Escarcega v. Olson*, No. CIV-25-1129-J, 2025 WL 3243438 (W.D. Okla. Nov. 20, 2025). But since this Court's ruling in *Escarcega*, the United States Court of Appeals for the Fifth Circuit in *Buenrostro-Mendez v. Bondi, et al*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), has ruled in favor of the arguments made by Respondents below. This Response is filed so that the Court may consider the *Buenrostro-Mendez* decision, and to preserve for appeal the arguments made by Respondents that other Courts, including judges within this Court, have found persuasive.[4]

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[1] The Petition inaccurately identifies Respondent Mary De Anda-Ybarra as the Field Office Director of Enforcement and Removal Operations, Dallas, Texas. Respondent De Anda-Ybarra is instead the Field Office Director for the El Paso, Texas, office.

[2] Respondent Fred Figueroa, Warden of the Diamondback Correctional Center, is not a federal official and this response is therefore not filed on his behalf.

[3] The Petition erroneously cites "28 U.S.C. § 2241(c)(5) (habeas corpus)" as a basis for jurisdiction. Pet. at ¶ 9. That provision may be invoked when "it is necessary to bring [the prisoner] into court to testify or for trial" and is not applicable here. 28 U.S.C. § 2241(c)(5).

[4] This District is currently split on this issue. *Compare Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344 (W.D. Okla. Jan. 6, 2026), *Ramirez-Rojas v. Noem*, No. CIV-25-1236-HE, 2026 WL 94641 (W.D. Okla. Jan. 13, 2026) *with Cortes v. Holt*, No. CIV-25-1176-SLP, 2026 WL 147435, at *1 (W.D. Okla. Jan. 20, 2026); *Valdez v. Holt*, No. CIV-25-1250-R, 2025 WL 3709021 (W.D. Okla. Dec. 22, 2025); *Colin v. Holt, et al.*, No. CIV-25-1189-D, 2025 WL

BACKGROUND

I. Legal Framework

In the Immigration and Nationality Act ("INA"), Congress established rules governing when certain non-citizens may be detained or removed. As relevant here, 8 U.S.C. § 1225 governs the processes for the detention and removal of "applicants for admission"—a subset of non-citizens. this case largely turns on the plain language of the INA and specifically 8 U.S.C. § 1225(b)(2)(A). That Section provides:

> [I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

Section 1225 defines an "applicant for admission" as any "alien present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). The INA defines "admission" and "admitted" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A). In

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3645176 (W.D. Okla. Dec. 16, 2025);. *See also Castanon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F. 4th 1048, 1060-62 (7th Cir. 2025) (considering the issue on a preliminary record in the context of an emergency motion to stay two district court orders).

Respondents' position also finds support outside this Court. *See, e.g., Coronado v. DHS*, 1:25-CV-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025); *Hernandez Cruz v. Noem*, No. 8:25-CV-02566-SB-MAA, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *Valencia v. Chestnut*, No. 1:25-CV-01550 WBS JDP, 2025 WL 3205133, at *3 (E.D. Cal. Nov. 17, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Oliveira v. Patterson*, 6:25-cv-01463-DCJ-DJA, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, Case No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646 (W.D. La. Oct. 22, 2025), *report and recommendation adopted*, No. 6:25-CV-00451, 2025 WL 3113644 (W.D. La. Nov. 6, 2025); *Rojas v. Olson*, Case No. 25-cv-1437-bhl, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Vargas Lopez v. Trump*, No. 25-CV-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025).

other words, an applicant for admission is a non-citizen who (1) is present in the United States and did not lawfully enter the country *or* (2) is arriving in the United States. Petitioner falls into the first group.

Section 1225(b)(1) describes the two categories of applicants for admission that are subject to expedited removal proceedings. The first category includes those non-citizens who are arriving and inadmissible under 8 U.S.C. § 1182(a)(6)(c) or (a)(7).[5] *Id.* § 1225(b)(1)(A)(i). The second category includes those non-citizens who have "not been admitted or paroled into the United States," who have not "affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility," and who also are inadmissible under Section 1182(a)(6)(c) or (a)(7). *Id.* § 1225(b)(1)(A)(i), (iii)(II). Non-citizens within the two categories described in § 1225(b)(1) "shall be detained" until removed (or until the end of asylum or credible fear proceedings). 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV).[6]

Section 1225(b)(2), titled "Inspection of other aliens," "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1)[.]" *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (citing 8 U.S.C. §§ 1225(b)(2)(A), (B)) (emphasis added). Under § 1225(b)(2)(A), all other applicants for admission who an immigration officer determines are "not clearly and beyond a doubt entitled to be admitted" shall be detained for

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[5] Sections 1182(a)(6)(c) and (a)(7) address inadmissibility based on misrepresentation or the lack of valid entry documents.

[6] Depending on the circumstances, a non-citizen who is ordered removed under Section 1225(b)(1)(A)(i) but who is not removed within 90 days of the removal order, *may* be released under an order of supervision. 8 U.S.C. § 1231(a)(3).

removal proceedings under 8 U.S.C. § 1229a. Thus, § 1225(b)(2)(A) generally provides for detention during full removal proceedings for non-citizen who are applicants for admission, but who do not fall within one of the two categories described in § 1225(b)(1). Section 1225 does not provide a bond hearing for noncitizens detained under that provision.

While § 1225 applies to applicants for admission, § 1226 applies more generally to *all* non-citizens, even if the non-citizen has not yet encountered or been examined by immigration officers. Under Section 1226(a), if the Secretary[7] of DHS issues a warrant, regardless whether there was prior interaction or examination by an immigration officer, a non-citizen may be arrested and detained "pending a decision on whether the alien is to be removed from the United States." The section is a means of effectuating detention prior to any examination by an immigration officer. Following arrest, and subject to certain restrictions, the non-citizen may be examined and remain detained or may be released on bond or conditional parole. *Id.* By regulation, immigration officers can release such a non-citizen if he demonstrates that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). If not released by an immigration officer, the non-citizen can request a custody redetermination by an immigration judge before a final order of removal is issued. *See id.* §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

Within that broader category of all non-citizens, § 1226(c)(1) pertains to the mandatory detention of non-citizen who have had certain interactions with the criminal justice system. *See* 8 U.S.C. 1226(c) ("The Attorney General shall take into custody *any* alien

[7] In the INA, "Attorney General" should be read to mean the "Secretary of Homeland Security." *Awe v. Napolitano*, 494 F. App'x. 860, 862 n. 3 (10th Cir. 2012).

who–" (emphasis added)). To this end, lawful permanent residents–*i.e.*, those who *have been admitted* to the United States and are *not* applicants for admission–may be subject to this mandatory detention provision. *See* 8 U.S.C. §§ 1227(a)(1)(A); 1182(a)(6)(A)(i); *Nielsen v. Preap*, 586 U.S. 392 (2019) (lawful permanent resident detained pursuant to § 1226). It also reaches other non-citizens who are *not* applicants for admission, such as non-citizens admitted erroneously but who are nevertheless deportable. *See* 8 U.S.C. §§ 1227(a)(1)(A); 1182(a)(6)(C)(i).

II. Factual Background

Petitioner is a citizen of India who has been present in the United States since October 10, 2023, without being admitted. Petition ("Pet.") at ¶¶ 15, 41. On the same date, he was examined by immigration officers, placed in removal proceedings and released. *Id.* at ¶ 41; Notice to Appear, Ex. 1, p. 2. On January 2, 2024, Petitioner filed a Form I-589 Application for Asylum, and on September 15, 2024, filed an updated I-589, in the immigration proceedings. Ex. 2, I-589; Ex. 3, Updated I-589. Petitioner was detained by DHS on or about January 6, 2026, and currently is housed at Diamondback Correctional Facility in Watonga, Oklahoma. Pet. at ¶¶ 1, 15.

ARGUMENT

I. The Plain Language of § 1225(b)(2)(A) Applies to Petitioner

The plain language of § 1225(b)(2)(A) applies to this case. To escape that conclusion, some courts have found ambiguity based on the title and/or structure of the provision and past practice, and others read an "arriving" limitation into the language of § 1225(b)(2)(A) that is absent from the actual text. Each of those contentions is in error.

A. Petitioner is an "Applicant for Admission" and "Seeking Admission."

Section 1225(a)(1) expressly states that "[a]n alien present in the United States who has not been admitted … shall be deemed … an applicant for admission." 8 U.S.C. § 1225(a)(1). "Presence without admission deems [p]etitioners to be applicants for admission." *Buenrostro-Mendez*, at *4 (citing § 1225(a)(1). *Mejia Olalde*, 2025 WL 3131942, at *3 (Therefore, by being "present in the country" without being "admitted," Petitioner is deemed an "applicant for admission."); *Sandoval*, 2025 WL 3048926, at *5 n.5; *Oliveira*, 2025 WL 3095972, at *5 n.4.

Petitioner also is "seeking admission." On January 2, 2024, Petitioner filed an I-589 Application for Asylum, and on September 15, 2024, filed an Updated I-589. Ex. 2, 3. Respondents recognize that in *Escarcega*, this Court found that § 1225(b)(2)(A) only applies to noncitizens seeking admission at the border. 2025 WL 3243438 at * 2. Respondents request that the Court reconsider its position. Petitioner's application for asylum is seeking admission. 8 U.S.C. § 1159(b); 8 C.F.R. § 1209.2(a)(1); *Ugarte-Arenas*, 2025 WL 3514451, at *4 ("As a matter of fact, however, it is clear Petitioner is seeking admission into the United States. He has filed an application for asylum and is thus seeking authorization to remain in the country. Petitioner is therefore an "alien seeking admission" into the United States subject to § 1225(b)(2)(A)."); *Rojas*, 2025 WL 3033967, at *8 ("The record confirms that Cirrus Rojas is now in fact seeking admission to the United States. His petition acknowledges that he has an application for asylum pending in the immigration court.").

But, even if Petitioner had not affirmatively sought asylum, he is nonetheless seeking admission. The plain language of the statute provides that being an "applicant for

admission" is a means of "seeking admission." 8 U.S.C. § 1225(b)(2)(A). In other words, every "applicant for admission" is inherently and necessarily "seeking admission" unless they withdraw their applications for admission or seek voluntary departure. *Montoya*, 2025 WL 3733302, at *9. No additional affirmative step is necessary.

Section 1225(a)(3) confirms this by providing that all non-citizens "who are applicants for admission or otherwise seeking admission ... shall be inspected by immigration officers." *See Buenrostro-Mendez*, 2026 WL 323330, at *5. 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 Att'y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019); Black's Law Dictionary 1101 (6th ed. 1990). Being an "applicant for admission" is only one "way or manner" of seeking admission, such that any alien who is an "applicant for admission" *is* "seeking admission." *Montoya*, 2025 WL 3733302, at *8-9.

The everyday meaning of the statutory terms also supports this reading. One applying for something is necessarily seeking it. *See Buenrostro-Mendez*, 2026 WL 323330, at *4-5; *Mejia Olalde*, 2025 WL 3131942, at *3. For example, a person who is "applying" for admission to a college is "seeking" admission to the college. *See* The American Heritage Dictionary of the English Language 63 (1980) ("American Heritage Dictionary") ("apply" means "[t]o request or *seek* employment, acceptance, or *admission*" (emphasis added)). Likewise, an alien who is "applying" for admission to the United States necessarily is "seeking admission" to the

United States. *Accord Rojas*, 2025 WL 3033967, at *8 ("seeking admission" is "best read as simply another way of referring to aliens who are applicants for admission").

All of this confirms that neither the duration of an alien's unlawful presence in the United States nor his distance from the border when apprehended alters the legal reality that an "applicant for admission" is "seeking admission." *Montoya*, 2025 WL 3733302, at *2. "Congress knows how to limit the scope" of the INA "geographically and temporally when it wants to." *Mejia Olalde*, 2025 WL 3131942, at *4. For example, Section 1225(b)(1) may apply to aliens "arriving in the United States" or who "ha[ve] been physically present in the United States continuously for [a] 2-year period." 8 U.S.C. § 1225(b)(1). So, "[i]f Congress meant to say that an alien no longer is 'seeking admission' after some amount of time in the United States, Congress knew how to do so." *Mejia Olalde*, 2025 WL 3131942, at *4. It did not do so. *Montoya*, 2025 WL 3733302, at *2 ("The statute gives no temporal or geographic limitations on the status of being an applicant for admission."); *Vargas Lopez*, at *9 ("just because [petitioner] illegally remained in this country for years does not mean that he is suddenly not an 'applicant for admission' under § 1225(b)(2)").[8] Petitioner's proposed construction contradicts the plain language of the statute and should be rejected.

B. Section 1225(b)(2)(A) Does Not Contain an "Arriving" Limitation.

Petitioner argues that the INA's "entire framework is premised on inspections at the border of people who are 'seeking admission' to the United States." Pet. at ¶ 39. As

[8] Additionally, a contrary reading means that immigration officers cannot immediately detain a non-citizen residing in the United States without determining if they were somehow *actively* seeking admission. *Montoya*, 2025 WL 3733302, at *2; *Coronado*, 2025 WL 3628229, at *9. Instead, the proper standard for the immigration officer is that which is plainly stated in the INA; namely, whether the non-citizen is "entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A).

discussed above, that position ignores the unambiguous statutory text. Petitioner also improperly reads an "arriving" modifier into Section 1225(b)(2)(A).

Congress used the phrase "arriving alien" throughout Section 1225. *See, e.g.* 8 U.S.C. §§ 1225(a)(2), (b)(1), (c)(1), (d)(2). But Congress *did not* use the word "arriving" to limit § 1225(b)(2)(A)'s mandatory-detention provision, and that omission must be given effect—something Petitioner's reading cannot do. *See Buenrostro-Mendez*, 2026 WL 323330, at *6; *Cabanas*, 2025 WL 3171331, at *5. *See also Russello v. United States*, 464 U.S. 16, 23 (1983) ("Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." (cleaned up)).

The title of and subtitles within § 1225 underscore this point. The title reads: "Inspection by immigration officers, *expedited removal of inadmissible arriving aliens*, **referral for hearing.**" The first underlined portion is a reference to subpart (a)'s inspection obligations. The second italicized portion refers to the expedited proceedings of (b)(1) for "arriving aliens." Importantly, however, the third part of bolded text is a reference to the full removal proceedings under (b)(2)(A) for non-citizens present in the country. That is because "arriving aliens" are subject to *expedited* removals and do not get hearings pursuant to § 1229a. In contrast, non-citizens present in the country are provided full removal hearings under (b)(2)(A). *See Sandoval*, 2025 WL 3048926, at *4. Respondents' construction accounts for that difference, whereas Petitioner's reading does not. Similarly, the title of (b)(1) is "Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled." In contrast, (b)(2) does not include and "arriving" limitation.

Under Petitioner's proposed construction, the "arriving" limitation in (b)(1) is superfluous.

C. Petitioner's Interpretation Undermines the Purpose of the IIRIRA.

Petitioner's interpretation also contradicts the purpose of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and effectively repeals a Congressionally-enacted statutory fix. Prior to the 1996 passage of IIRIRA, an "anomaly" existed whereby "immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully." *Cortes*, 2026 WL 147435 at *6. While the IIRIRA did not entirely replace the prior immigration scheme, focusing on "arriving" to contradict the plain language of the statute negates one purpose of the IIRIRA. Indeed, Petitioner's proposed construction incentivizes noncompliance with immigration laws by providing more protection to those that bypass border inspections and evade detection to reside within the United States. *See Chavez v. Noem*, CIV-25-2325-CAB-SBC 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025); *Sandoval*, 2025 WL 3048926, at *6 n.7; *Oliveira*, 2025 WL 3095972, at *6.

The commentary to the implementing regulations cited by Petitioner further supports Respondents' position. Pet. at. ¶¶ 25-26. The commentary reads: "*Despite being applicants for admission*, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). This acknowledges the plain language of the statute that non-citizens, like Petitioner, are "applicants for admission" under § 1225, but announces the *discretionary* choice to use § 1226 for detentions and permit bond hearings. Petitioner's reading improperly conflates enforcement discretion with statutory

interpretation. *Buenrostro-Mendez*, 2026 WL 323330, at *7-9; *Rojas*, 2025 WL 3033967 at *9.

D. The Laken Riley Act Does Not Render § 1225(b)(2)(A) Superfluous.

Some courts suggest a recent amendment to the INA—the Laken Riley Act ("LRA")—would be superfluous if the government's reading of § 1225(b)(2)(A) is accepted. But partial overlap between provisions does not make them superfluous. *Melgar v. Bondi*, 8:25CV555, 2025 WL 3496721, at *12 (D. Neb. Dec. 5, 2025). Instead, in both 1996 and 2025, Congress wanted *more* enforcement of immigration restrictions and enacted complementary provisions with different means to effectuate that purpose. *Sosa*, 2026 WL 36344, at *5; *Cabanas*, 2025 WL 3171331 *6.

Section 1226(a)'s general detention authority applies to *all* noncitizens. In comparison, section 1225 is narrower in scope and applies only to "applicants for admission," which includes noncitizens present in the United States who have not been admitted. *See* 8 U.S.C. § 1225(a)(1). And, it is well-accepted that where "there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one." *Guidry v. Sheet Metal Workers Nat. Pension Fund*, 493 U.S. 365, 375 (1990) (citation omitted). *See also Sandoval*, 2025 WL 3048926, at *5. The two provisions are not superfluous merely because § 1226(c)(1)(E), as amended by the LRA, mandates detention for a group that includes a narrow subset of applicants for admission that may also be subject to § 1225(b)(2)(A) detention. *See, e.g., Am. Car Rental Ass'n v. Humphreys*, 789 F. Supp. 3d 1043, 1049 (D. Colo. 2025). Indeed, overlap and redundancies "are common in statutory drafting" and do not justify disregarding the plain meaning of statutory text. *Barton v. Barr*, 590 U.S. 222, 239 (2020); *Am. Car Rental Ass'n*, 789 F. Supp. 3d at 1049; *Cabanas*, 2025 WL 3171331

*6.

E. Petitioner's Reliance on Jennings Is Misplaced.

Petitioner argues that *Jennings* confirms that § 1225 applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." Pet. at ¶ 39 (citing *Jennings*, 583 U.S. at 287). According to Petitioner, it follows that the mandatory detention provision of § 1225(b)(2)(A) does not apply to people who have already entered and were residing in the United States at the time they were apprehended. Pet. at ¶ 40.

But the quoted sentence cites to § 1225 generally, not § 1225(b)(2)(A) specifically. *Jennings* suggested that § "1225(b) applies primarily to aliens seeking entry into the United States," and that § 1226(a) is the "default rule" for aliens "inside the United States." 583 U.S. at 288, 297. But the opinion later confirms that § 1225(b)(2) should apply to aliens who entered without inspection. Specifically, § 1225(b)(2) is a "catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* at 287. The Court did not limit § 1225(b) to those just arriving in the United States and does not support Petitioner's sweeping reading. *See Buenrostro-Mendez*, 2026 WL 323330, at *7-8

II. Petitioner's Constitutional Due Process Argument (Count II) Is Premature and Without Basis

Petitioner's general quote from *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) regarding freedom from imprisonment, Pet. at ¶¶ 50, 53, is insufficient to warrant consideration of relief. *United States v. Clay*, 148 F.4th 1181, 1201 (10th Cir. 2025) ("It is well-settled that arguments inadequately briefed in the opening brief are waived." (quotation omitted)). Indeed, *Zadvydas*, stands for the proposition that detention is presumptively permitted for six

months. Petitioner has been in custody for less than two months. Pet. at ¶ 15. And in *Zadvydas*, the petitioner was facing the prospect of indefinite detention. That is also not the case. While detention pursuant to § 1225(b) is mandatory, it is *not* indefinite. On the contrary, when removal proceedings conclude, "detention under § 1225(b) must end as well." *Jennings*, 583 U.S. at 297, 299.

Granting the Petition under the premise that all detention must be subject to bond hearings would require a reading of the Due Process Clause that the Supreme Court has never endorsed and in fact has repeatedly avoided. *See Jennings*, 583 U.S. at 297 ("nothing in the statutory text imposes any limit on the length of detention. And neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings"); *Demore v. Kim*, 538 U.S. 510, 522 (2003) ("And, since *Mathews,* this Court has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens."). This Court should decline to take such a drastic step without meaningful briefing. *See Mathews v. Diaz*, 426 U.S. 67, 81 (1976).

If the Court entertains Petitioner's argument, it should be denied. To assess the merits of Petitioner's constitutional claims, it is necessary to determine first what due process rights Petitioner possesses. Petitioner has not been admitted to the U.S., and for any non-citizen who has not been admitted into the country pursuant to law, the INA provides the only process due under the Constitution. *United States v. Thuraissigiam*, 591 U.S. 103, 138-40 (2020). *See also Demore*, 538 U.S. at 523 ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings. At the same time, however, this Court has recognized detention during deportation proceedings as a constitutionally

valid aspect of the deportation process." (cleaned up)). Indeed, the Supreme Court described "our century-old rule regarding the due process rights of an alien seeking initial entry" as "rest[ing] on fundamental propositions" that:

> [T]he power to admit or exclude aliens is a sovereign prerogative; the Constitution gives the political department of the government plenary authority to decide which aliens to admit; and a concomitant of that power is the power to set the procedures to be followed in determining whether an alien should be admitted."

Thuraissigiam, 591 U.S. at 139. *See also U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) ("Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned."). Petitioner's Due Process claim is without merit.

CONCLUSION

Respondents respectfully request that the Court deny the Petition and dismiss the case.

Respectfully submitted,

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