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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 JORGE EDUARDO CRISTOBAL
12 AMEZCUA,

13 Petitioner,

14 v.

15
16 CHRISTOPHER LAROSE,

17 Respondent.
18

Case No.: 26-cv-1340-CAB-DDL

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

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22 **I. INTRODUCTION**

23 Petitioner requests the Court to order his immediate release from Immigration
24 and Customs Enforcement (ICE) custody or require that he be afforded a bond hearing.
25 However, Petitioner's detention is mandated by 8 U.S.C. § 1225(b)(2) until the
26 conclusion of his removal proceedings. Accordingly, this Court should deny the
27 request relief.
28

1 hearing for August 11, 2025. Ex. 5 (NTA 2025). These removal proceedings remain
2 pending. The merits hearing began on January 29, 2026, and after a delay at Petitioner’s
3 request, is scheduled for completion on April 1, 2026. As a result, there is no
4 administratively final order of removal at this time. Petitioner remains mandatorily
5 detained under 8 U.S.C. § 1225(b)(2)(A).

6 III. ARGUMENT

7 A. Petitioner is Lawfully Detained Under the INA and the Constitution.

8 The Court must deny his habeas petition because Petitioner’s detention is
9 statutorily mandated under 8 U.S.C. § 1225(b)(2)(A).

10 1. Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(2).

11 Petitioner’s claim fails because he is subject to mandatory detention under 8
12 U.S.C. § 1225(b)(2). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is
13 defined as an “alien present in the United States who has not been admitted or who
14 arrives in the United States.” As explained above, applicants for admission “fall into
15 one of two categories, those covered by § 1225(b)(1) and those covered by §
16 1225(b)(2).” *Jennings*, 583 U.S. at 287.

17 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is *an*
18 *applicant for admission*, if the examining immigration officer determines that an alien
19 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” *Chavez*
20 *v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025)
21 (quoting 8 U.S.C. § 1225(b)(2)(A)) (emphasis in original). Petitioner contends that he
22 is entitled to a bond hearing. But the Supreme Court has rejected such contention,
23 explaining: “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of
24 applicants for admission until certain proceedings have concluded. . . . Nothing in the
25 statutory text imposes any limit on the length of detention. And neither § 1225(b)(1)
26 nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at
27 297. Except for temporary parole granted at the discretion of the Attorney General “for
28 urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5),

1 “there are no *other* circumstances under which aliens detained under § 1225(b) may be
2 released.” *Id.* at 300 (emphasis in original).

3 As Petitioner’s removal proceedings are pending, and he has not been granted
4 temporary parole, section 1225(b)(2) mandates his detention until the proceedings have
5 concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention under
6 § 1225(b) must end as well.”). Because Petitioner is lawfully detained under
7 section 1225(b) and the statute does not entitle him to a bond hearing at this time, his
8 petition must be denied. *See, e.g., Zelaya-Gonzalez v Matuszewski*, No. 23-CV-151
9 JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. April 25, 2023) (applying *Jennings* to
10 find that the petitioner had no right to release or a bond hearing under 1225(b)(1)
11 because “[b]inding Ninth Circuit and Supreme Court precedents are clear that Petitioner
12 lacks any rights beyond those conferred by statute, and no statute entitles Petitioner to
13 a bond hearing”).

14 **2. Petitioner’s detention is not unconstitutionally prolonged.**

15 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.
16 § 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]
17 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain
18 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)
19 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither
20 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The
21 Supreme Court added that the sole means of release for noncitizens detained pursuant
22 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary
23 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300
24 (“That express exception to detention implies that there are no *other* circumstances
25 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis
26 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens
27 throughout the completion of applicable proceedings[.]” *Id.* at 302.

28

1 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a
2 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged
3 detention without a hearing violated his constitutional rights. The Supreme Court
4 rejected the petition, concluding that the noncitizen’s continued detention did not
5 deprive him of any due process rights, stating: “[A]n alien on the threshold of initial
6 entry stands on a different footing: ‘Whatever the procedure authorized by Congress
7 is, it is due process as far as an alien denied entry is concerned.’” *Id.* at 212 (citation
8 omitted).

9 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
10 (2020), the Supreme Court once again addressed the due process rights of inadmissible
11 arriving noncitizens seeking initial entry into the United States. The Supreme Court
12 stated that such individuals have no due process rights “other than those afforded by
13 statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in respondent’s position has only
14 those rights regarding admission that Congress has provided by statute.”). The
15 Supreme Court noted that its determination was supported by “more than a century of
16 precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660
17 (1892); *US ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S.
18 at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due
19 Petitioner is that afforded under section 1225(b), the Court must reject his claim that
20 his detention violates the Fifth Amendment’s Due Process Clause and deny his
21 requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at
22 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The
23 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme
24 Court has ‘firmly and repeatedly endorsed the proposition that Congress may make
25 rules as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore*
26 *v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4
27 (“Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks
28 any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond

1 hearing.”).

2 Since the Supreme Court’s decision in *Thuraissigiam*, numerous published
3 decisions have acknowledged *Thuraissigiam*’s impact on the precise Fifth Amendment
4 Due Process Clause that Petitioner might have raised in this petition: Does an alien
5 detained under 8 U.S.C. § 1225(b)(1) have a due process right to release or a bond
6 hearing after being detained for a certain period of time? The answer is no. *See*
7 *Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 WL 3316306, *2
8 (S.D. Cal. June 10, 2024) (“[T]he Court finds that Petitioner has no Fifth Amendment
9 right to a bond hearing pending his removal proceedings.”); *Zelaya-Gonzalez*, 2023
10 WL 3103811. *3 (S.D. Cal. Apr. 25, 2023) (same); *Rodriguez Figueroa v. Garland*,
11 535 F. Supp. 3d 122, 126–27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F.
12 Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579
13 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

14 Even if the Court infers a constitutional right against prolonged mandatory
15 detention, Petitioner’s claim still fails. “In general, as detention continues past a year,
16 courts become extremely wary of permitting continued custody absent a bond hearing.”
17 *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal.
18 April 20, 2023) (citation omitted); *see also Durand v. Allen*, No. 3:23-cv-00279-RBM-
19 BGS, 2024 WL 711607, at *5 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half
20 years); *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA (JLB), 2023 WL
21 139801, at *6 (S.D. Cal. Jan. 9, 2023) (three years); *Yagao v. Figueroa*,
22 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at *2 (S.D. Cal. March 29, 2019) (two
23 years). Petitioner’s detention falls short of the length numerous courts have found to
24 raise due process concerns.

25 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,
26 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g.*, *Sanchez-Rivera*, 2023 WL 139801,
27 at *5 (“[W]hile the *Mathews [v. Eldridge]*, 424 U.S. 319 (1976)] factors may be well-
28 suited to determining whether due process requires a second bond hearing, they are not

1 particularly dispositive of whether prolonged mandatory detention has become
2 unreasonable in a particular case.”); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-
3 JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding
4 “the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of
5 the possible constitutional implications of Petitioner’s ongoing detention without
6 process.”).

7 Under *Lopez*, to determine whether continued mandatory detention has become
8 unreasonable, “the Court will look to the total length of detention to date, the likely
9 duration of future detention, and the delays in the removal proceedings caused by the
10 petitioner and the government.” 631 F. Supp. 3d at 879.

11 First, Petitioner has been detained for about one year. Respondents provided
12 Petitioner with a bond hearing. The only reason he is in detention is the result of
13 Petitioner’s refusal to obey the law and to follow the requirements of the alternatives
14 to detention monitoring despite numerous warnings by ICE to comply. Ex. 4. Petitioner
15 fails to advise the Court of the reasons for his detention in his Petition. ECF No. 1.

16 Courts in this district have found detention for much longer periods to be
17 unreasonably prolonged. *See Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024
18 WL 711607 at *5 (S.D. Cal. Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL
19 3028093, at *4 (19 months); *Sanchez-Rivera*, 2023 WL 139801 at *6 (three years);
20 *Kydrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019
21 WL 1429582, at *1 (42 months). The length of detention “is the most important factor.”
22 *Sanchez-Rivera*, 2023 WL 139801, at *6 (citation omitted). Petitioner’s current
23 detention does not fall within the range these courts have found to be unreasonable.
24 Moreover, the length of Petitioner’s detention, by itself, does not favor granting habeas
25 relief. *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3
26 (S.D. Cal. Nov. 12, 2025) (“The Court agrees with Respondents that the length of
27 Petitioner’s detention to date—almost 12 months—does not by itself, without more,
28 establish prolonged detention in violation of due process.”). Not only does the length

1 of Petitioner's detention fall comparatively short of the length courts in this district
2 have found to warrant habeas relief, but the other *Lopez* factors do not favor habeas
3 relief either. The likely duration of future detention weighs against Petitioner.
4 Petitioner's individual merits hearing is scheduled for April 1, 2026, at which point his
5 path to release or removal should be clearer. Finally, there is no indication of any delay
6 in the removal proceedings on the part of the government other than the regular process
7 of scheduling the necessary hearings. Petitioner has requested and received three
8 continuances of the proceedings to obtain and replace counsel and perfect his claims
9 for relief resulting in about three months of delay.

10 Balancing the above factors, the record does not support a finding that "detention
11 has become so unreasonable as to require an initial bond hearing," *Sanchez-Rivera*,
12 2023 WL 139801, at *6, or an order requiring Petitioner's release.

13 Accordingly, Petitioner is subject to mandatory detention, which does not violate
14 due process. *See Markov v. LaRose*, No. 25-CV-3811 JLS (SBC), 2026 WL 92069 (S.D.
15 Cal. Jan. 13, 2026) ("Petitioner's length of detention, without more, does not render his
16 detention unreasonable."); *Duran Romero v. LaRose*, No. 25-cv-3567-AGS-VET, ECF
17 No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-AGS-KSC, ECF No.
18 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-BAS-DDL, ECF No.
19 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d at 221; *Gonzalez Aguilar*
20 *v. Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020 WL 3452967, at *6-8.

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IV. CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court dismiss this petition for lack of jurisdiction or deny it on the merits.

Dated: March 18, 2026

Respectfully submitted,

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