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

JAVIER TREVINO-CHAUTLA,

Petitioner,

v.

JOHN DOE, Warden,

Respondents, et al..

Case No.: 26-cv-1447-JES-AHG

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

I. INTRODUCTION

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

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of Mexico, who illegally entered the United States without inspection at an unknown location at an unknown time. Exhibit (Ex.) 1 (Form I-213).¹ Immigration and Customs Enforcement (ICE) took Petitioner into custody pursuant to 8 U.S.C. § 1225(b) on February 1, 2025, after a detainer was honored by the Hillsborough County Jail in Tampa, Florida, subsequent to his second arrest for driving under the influence. *Id.* He was determined to be inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). Petitioner was issued a Notice to Appear (NTA). Ex. 2 (NTA). The filing of the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a, against Petitioner. Within his removal proceedings under § 1229a, Petitioner has applied for relief from removal before an immigration judge (IJ). The NTA scheduled the first master calendar hearing for February 12, 2025. *Id.*

On April 25, 2025, Petitioner withdrew his request for a bond hearing. Ex. 3 (Bond Order). During his removal proceedings, Petitioner requested 5 delays resulting in about 7 months of delay. Exs. 4 (Adjournment history), 5 (Adjournment Codes). On March 12, 2026, an immigration judge denied all relief and ordered Petitioner removed to Mexico. Ex. 6 (IJ Removal Order). Petitioner has until April 13, 2026, to appeal. As a result, there is no administratively final order of removal at this time. Petitioner remains mandatorily detained under 8 U.S.C. § 1225(b)(2)(A).

III. ARGUMENT

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

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

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¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from Immigration and Customs Enforcement (ICE) counsel.

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

2 Petitioner’s claim fails because he is subject to mandatory detention under 8
3 U.S.C. § 1225(b)(2). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is
4 defined as an “alien present in the United States who has not been admitted or who
5 arrives in the United States.” As explained above, applicants for admission “fall into
6 one of two categories, those covered by § 1225(b)(1) and those covered by §
7 1225(b)(2).” *Jennings*, 583 U.S. at 287.

8 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is *an*
9 *applicant for admission*, if the examining immigration officer determines that an alien
10 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” *Chavez*
11 *v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025)
12 (quoting 8 U.S.C. § 1225(b)(2)(A)) (emphasis in original). Petitioner contends that he
13 is entitled to a bond hearing. But the Supreme Court has rejected such contention,
14 explaining: “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of
15 applicants for admission until certain proceedings have concluded. . . . Nothing in the
16 statutory text imposes any limit on the length of detention. And neither § 1225(b)(1)
17 nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at
18 297. Except for temporary parole granted at the discretion of the Attorney General “for
19 urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5),
20 “there are no *other* circumstances under which aliens detained under § 1225(b) may be
21 released.” *Id.* at 300 (emphasis in original).

22 As Petitioner’s removal proceedings are pending, and he has not been granted
23 temporary parole, section 1225(b)(2) mandates his detention until the proceedings have
24 concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention under
25 § 1225(b) must end as well.”). Because Petitioner is lawfully detained under
26 section 1225(b) and the statute does not entitle him to a bond hearing at this time, his
27 petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151
28 JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. April 25, 2023) (applying *Jennings* to

1 find that the petitioner had no right to release or a bond hearing under 1225(b)(1)
2 because “[b]inding Ninth Circuit and Supreme Court precedents are clear that Petitioner
3 lacks any rights beyond those conferred by statute, and no statute entitles Petitioner to
4 a bond hearing”).

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

6 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.
7 § 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]
8 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain
9 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)
10 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither
11 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The
12 Supreme Court added that the sole means of release for noncitizens detained pursuant
13 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary
14 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300
15 (“That express exception to detention implies that there are no *other* circumstances
16 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis
17 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens
18 throughout the completion of applicable proceedings[.]” *Id.* at 302.

19 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a
20 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged
21 detention without a hearing violated his constitutional rights. The Supreme Court
22 rejected the petition, concluding that the noncitizen’s continued detention did not
23 deprive him of any due process rights, stating: “[A]n alien on the threshold of initial
24 entry stands on a different footing: ‘Whatever the procedure authorized by Congress
25 is, it is due process as far as an alien denied entry is concerned.’” *Id.* at 212 (citation
26 omitted). “*Mezei* therefore suggests that the Court found that excludable aliens simply
27 enjoy no constitutional right to be paroled into the United States, even if the only
28 alternative is prolonged detention.” *Barrera-Echavarria v. Rinson*, 44 F.3d 1441, 1450

1 (9th Cir. 1995) (en banc), *superseded by statute as stated in Xi v. INS*, 298 F.3d 832
2 (9th Cir. 2002). That is, “Supreme Court precedent squarely precludes a conclusion
3 that [excludable aliens] have a constitutional right to be free from detention, even for
4 an extended time.” *Id.* at 1449. *Barrera-Echavarria*’s application—at least as it relates
5 to arriving aliens—has never been overruled. The Ninth Circuit continues to cite
6 *Barrera-Echavarria*’s due process (i.e., non-statutory) analysis. *See Llamas-Lopez v.*
7 *Barr*, 825 F. App’x 523, 524 (Mem.) (9th Cir. 2020); *Angov v. Lynch*, 788 F.3d 893,
8 898 (9th Cir. 2015) (Angov’s “claim of a procedural due process violation simply can’t
9 be squared with the Supreme Court’s teachings in *Mezei*” and “our circuit’s settled
10 precedent”).

11 A district court within this Circuit provided a thorough summary of “the law of
12 the Ninth Circuit as it currently stands [including *Barrera-Echavarria*, and its
13 treatment by *Rodriguez II*, *Rodriguez III*, and *Rodriguez V*],” in *Ibarra-Perez v.*
14 *Howard*, 468 F. Supp. 3d 1156, 1177 (D. Arizona 2020). The court there reasoned that
15 “Respondents have the better side of this argument” and rejected the notion that an
16 arriving alien detained under § 1225(b) was entitled to a bond hearing, because it “must
17 do its best to discern and apply the law[.]” The above must be true because *Mezei* “is
18 still good law.” *See Aracely, R v. Nielsen*, 319 F. Supp. 3d 110, 145 (D.D.C. 2018).
19 “*Mezei* therefore remains binding precedent for our court—which means the Due
20 Process Clause does not forbid [petitioner’s] detention.” *Martinez v. Larose*, 980 F.3d
21 551, 554 (6th Cir. 2020) (Mem.) (Thapar, J., concurring in the denial of rehearing *en*
22 *banc* based on *Mezei* and *Thuraissigiam*).

23 And because it remains good law, *Mezei* “is directly on point and controls this
24 case.” *Poonjani v. Shanahan*, 319 F. Supp. 3d 644 (S.D.N.Y. 2018) (denying bond
25 because—for an alien on the “threshold of initial entry”—due process is “whatever
26 procedures has been authorized by Congress”). Other courts agree. *See Arana v. Arteta*,
27 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (citing *Poonjani*); *Acosta v. Arteta*, 2026
28 WL 263470 (S.D.N.Y. Feb. 2, 2026) (citing *Poonjani*); *Mendez Ramirez v. Decker*,

612 F. Supp. 3d 200 (S.D.N.Y. 2020) (citing *Poonjani*); *Gonzalez Aguilar v. Wolf*, 448 F. Supp. 3d 1202, 1212 (D.N.M. 2020) (“*Mezei* and its progeny do not hold that Petitioner has no due-process rights; rather, the applicable statutory process shapes her procedural due-process rights. Because Petitioner has no statutory right to release or a bond hearing, she has no procedural due-process right to the relief requested.”).

District courts in this Circuit that disagree generally neither grapple with *Mezei* nor *Barrera-Echavarria*. See *Ibarra-Perez*, 468 F. Supp. 3d at 1177, fn. 25 (citing *Poonjani* and rejecting the leading “prolonged detention” case, *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), because *Banda* did not even discuss *Barrera-Echavarria*, the “entry fiction” doctrine, or portions of *Rodriguez II and III* and “seem to adopt *Barrera-Echavarria*’s logic as it pertains to arriving aliens”).

Mezei cannot be distinguished simply on “national security” grounds. Those facts were immaterial. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (distinguishing *Mezei* because he was treated “as if stopped at the border,” and “*that made all the difference*”) (emphasis added). In fact, in *Barrera-Echavarria*, the dissent criticized the majority’s reliance on *Mezei*, claiming that “[n]o such national security concerns are implicated in *Barrera*’s case.” See 44 F.3d at 1452 (Pregerson, J., dissenting). Nor can *Mezei* be dismissed as merely an exclusion case. See *id.* at 1449-50 (“[*Mezei*’s] holding necessarily included a determination that *Mezei*’s detention was legal as well.”); see *Zadvydas*, 533 U.S. at 693 (stating *Mezei* involved “indefinite detention”).

Mezei has direct application here; this precedent thus controls “until explicitly overruled by that Court.” *United States v. Esqueda*, 88 F.4th 818, 828 (9th Cir. 2023).

In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020), the Supreme Court once again addressed the due process rights of inadmissible arriving noncitizens seeking initial entry into the United States. The Supreme Court stated that such individuals have no due process rights “other than those afforded by statute.” *Id.* at 107; see also *id.* at 140 (“[A]n alien in respondent’s position has only those rights regarding admission that Congress has provided by statute.”). The

Supreme Court noted that its determination was supported by “more than a century of precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S. at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due Petitioner is that afforded under section 1225(b), the Court must reject his claim that his detention violates the Fifth Amendment’s Due Process Clause and deny his requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has ‘firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4 (“Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond hearing.”).

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

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

In similar cases, courts in this district have applied the test in *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g., Sanchez-Rivera*, 2023 WL 139801, at *5 ("[W]hile the *Mathews [v. Eldridge]*, 424 U.S. 319 (1976) factors may be well-suited to determining whether due process requires a second bond hearing, they are not particularly dispositive of whether prolonged mandatory detention has become unreasonable in a particular case."); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding "the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of the possible constitutional implications of Petitioner's ongoing detention without process.").

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

First, Petitioner has been detained for about 13 months. Petitioner requested a bond hearing during his detention but withdrew that request. Ex. 3. The only reason he is in detention is the result of Petitioner's refusal to obey the law. He was convicted of

reckless driving after his arrest for driving under the influence on July 15, 2018, and was then arrested again for driving under the influence on January 20, 2025, which led to his detention by ICE. Ex. 1.

Courts in this district have found detention for much longer periods to be unreasonably prolonged. *See Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 at *5 (S.D. Cal. Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL 3028093, at *4 (19 months); *Sanchez-Rivera*, 2023 WL 139801 at *6 (three years); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019 WL 1429582, at *1 (42 months). The length of detention “is the most important factor.” *Sanchez-Rivera*, 2023 WL 139801, at *6 (citation omitted). Petitioner’s current detention does not fall within the range these courts have found to be unreasonable. Moreover, the length of Petitioner’s detention, by itself, does not favor granting habeas relief. *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3 (S.D. Cal. Nov. 12, 2025) (“The Court agrees with Respondents that the length of Petitioner’s detention to date—almost 12 months—does not by itself, without more, establish prolonged detention in violation of due process.”). Not only does the length of Petitioner’s detention fall comparatively short of the length courts in this district have found to warrant habeas relief, but the other *Lopez* factors do not favor habeas relief either. The likely duration of future detention weighs against Petitioner. Petitioner’s individual merits hearing has concluded. He has until April 13 to appeal the removal order. If he does not appeal, his path to removal will be clear. Petitioner has requested and received five continuances of the proceedings to obtain and replace counsel and perfect his claims for relief resulting in about seven months of delay.

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

Accordingly, Petitioner is subject to mandatory detention, which does not violate due process. *See Markov v. LaRose*, No. 25-CV-3811 JLS (SBC), 2026 WL 92069 (S.D.

Cal. Jan. 13, 2026) (“Petitioner’s length of detention, without more, does not render his detention unreasonable.”); *Duran Romero v. LaRose*, No. 25-cv-3567-AGS-VET, ECF No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-AGS-KSC, ECF No. 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-BAS-DDL, ECF No. 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d at 221; *Gonzalez Aguilar v. Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020 WL 3452967, at *6-8.

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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