

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

JORGE GALVAN-BASTARD,

Petitioner,

v.

WARDEN OF WEBB COUNTY
DETENTION CENTER, *et al.*,

Respondents.

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CIVIL NO. 5:26-CV-00426

**RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR SUMMARY JUDGMENT**

The Government¹ hereby responds to Jorge Galvan-Bastard's ("Petitioner") Petition for Writ of Habeas Corpus and respectfully requests that this Court deny his petition under 28 U.S.C. § 2241 and grant summary judgment for the Government under Federal Rule of Civil Procedure 56.

The Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This conclusion is required under controlling precedent. The Fifth Circuit Court of Appeals recently held that aliens, like the Petitioner, who entered the United States illegally and who are not "clearly and beyond a doubt entitled to be admitted," "shall be detained" under 8 U.S.C. § 1225(b)(2)(A), until the conclusion of their removal proceedings. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026). Accordingly, this Court should deny this habeas petition and grant summary judgment for the Government.

¹ The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

STATEMENT OF JURISDICTION

The Court has jurisdiction to review this habeas petition as it challenges the lawfulness of the Petitioner's detention. *See* 28 U.S.C. § 2241.

BACKGROUND

Petitioner is a native and citizen of Mexico. Dkt. 1 at ¶ 14; Dkt. 1-1 at 1. Petitioner entered the U.S. without inspection on or about May 6, 2022. Dkt. 1 at ¶¶ 2, 20, 30, 50-51, 57; Dkt. 1-1 at 1. On or about January 8, 2026, the U.S. Department of Homeland Security ("DHS") apprehended Petitioner and subsequently served him with a Notice to Appear ("NTA") charging him with removability pursuant to Immigration and Nationality Act ("INA") section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Dkt. 1 at ¶¶ 4, 24, 26, 47; Dkt. 1-1 at 1. In the NTA, the examining immigration official denied Petitioner admission into the United States, explained the basis for charging Petitioner with being subject to removal, and ordered Petitioner to appear in immigration court. Dkt. 1-1 at 1. Petitioner is currently detained at the Webb County Detention Center in Laredo, Texas. Dkt. 1 at ¶¶ 1, 13, 14; Dkt. 1-1 at 4. Petitioner's removal proceedings are currently pending. Petitioner has never requested a bond hearing.

ARGUMENT

A. PETITIONER IS SUBJECT TO MANDATORY DETENTION PURSUANT TO THE FIFTH CIRCUIT'S DECISION IN *BUENROSTRO V. BONDI*.

Petitioner's habeas petition must be denied because, based on recent Fifth Circuit precedent, he falls under the plain language of the mandatory detention provision in 8 U.S.C. § 1225(b)(2). In *Buenrostro*, the Fifth Circuit Court of Appeals held that aliens like Petitioner fall squarely within the ambit of § 1225(b)(2). *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir.

2026). The *Buenrostro* decision involved two consolidated cases. The aliens in *Buenrostro* had both entered the United States illegally. *Buenrostro-Mendez*, 166 F.4th at 499. The aliens had evaded immigration enforcement officials for many years (decades in the case of one of the aliens). *Id.* When ICE encountered the aliens in 2025, they were served NTAs, charging them with violating 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* The aliens were then detained under 8 U.S.C. § 1225(b)(2). *Id.* The Fifth Circuit held that the Government correctly applied the mandatory detention provision of 8 U.S.C. § 1225(b)(2) to the aliens because they were “applicants for admission”; who were “seeking admission;” and, who were “not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2). *Id.* In so holding, the Fifth Circuit rejected the arguments that many district courts had relied upon in granting habeas relief.

First, the Fifth Circuit made clear that aliens who had been present illegally in the United States for many years remained “applicants for admission” who were “seeking admission.” 166 F.4th at 502-503. The court explained that “[w]hen a person applies for something, they are necessarily seeking it.” *Id.* In so holding, the court rejected the reasoning that the phrase “seeking admission” in § 1225(b)(2)(A) uses the present tense and thus applies only to individuals “currently and actively seeking to be admitted to the United States when [they are] apprehended.” *Id.* at 502. The Fifth Circuit held that “the everyday meaning of the statute’s terms confirms that being an ‘applicant for admission’ is not a condition independent from ‘seeking admission.’” *Id.*

Second, the Fifth Circuit rejected the argument that § 1225(b)(2)’s mandatory detention provision rendered portions of § 1226 superfluous. Section 1226 still applies to aliens who have previously been admitted, such as visa holders whose visas have expired or those aliens who were erroneously admitted. 166 F.4th at 504-505. Similarly, the Laken Riley Act provisions of § 1226(c) still have effect, had effect even more so when it was passed: as the Executive at the time

was declining to exercise its full enforcement authority under the INA. *Id.* at 505. Moreover, the *Buenrostro* court recognized that any redundancy in the statute “does not give this court a ‘license to rewrite ... another portion of the statute contrary to its text.’” *Id.* at *503 (quoting *Barton v. Barr*, 590 U.S. 222, 239 (2020)).

Finally, the *Buenrostro* court, recognizing that the plain language of the INA controlled the analysis and outcome, rejected arguments based on the Executive’s past interpretation and application of § 1225 and § 1226. 166 F.4th at 506. The court observed that the Government’s interpretation and application of § 1225(b)(2) “better honors” the intent of Congress’s amendments to the INA—the full enforcement of § 1225(b)(2)’s plain terms “put aliens seeking admission lawfully on equal footing with those who entered without inspection.” *Id.* at 508.

Here, in all material respects, Petitioner’s case cannot be distinguished from *Buenrostro*. The Petitioner is an alien present in the United States who entered the country unlawfully “without inspection.” Dkt. 1 at ¶¶ 2, 20, 30, 50-51, 57; Dkt. 1-1 at 1. As the Fifth Circuit held, an alien “present in the United States who has not been admitted,” is by definition “an applicant for admission” who is “seeking admission.” 8 U.S.C. § 1225(a)(1); § 1225(b)(2). Petitioner was illegally present in the United States: he was not entitled to be admitted into the country. Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that “the alien *shall* be detained” in the case of “an alien seeking admission” who “is not clearly and beyond a doubt entitled to be admitted”) (emphasis added).

The *Buenrostro* decision is binding precedent and requires that the Court deny this habeas petition.

B. MALDONADO BAUTISTA RULING HAS NO PRECLUSIVE EFFECT.

Petitioner appears to be a member of the *Maldonado Bautista* class. However, any class membership is irrelevant given the ruling in *Buenrostro*. Courts have long recognized that one district court's decision cannot bind another district court. Thus, even prior to the Fifth Circuit's *Buenrostro* decision, several courts in the Fifth Circuit held that the *Maldonado Bautista* class action was flawed and refused to recognize it as having any preclusive effect. *See Calderon Lopez v. Lyons*, --- F. Supp. 3d ---, No. 1:25-CV-226, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Corea Meza v. Tate*, 4:26-cv-85 (S.D. Texas January 26, 2026) (Eskridge, J.) (Slip Opinion at Dkt. 8). Now that the Fifth Circuit has ruled on the scope of § 1225(b)(2), all doubt has been eliminated: the *Buenrostro* decision controls. Accordingly, numerous courts in the district have held that the Fifth Circuit's decision in *Buenrostro* controls the § 1225(b)(2) analysis and the *Maldonado Bautista* class action has no preclusive effect. *See, e.g., Ingrid Celina Beltran-Paredes*, 4:26-cv-5879 (S.D. Texas February 11, 2026) (Lake, J.). (holding that "the Central District of California's holding no longer controls in light of *Buenrostro*"); *Karovaliya v. Bondi*, No. 4:26-CV-00346, 2026 WL 508322, at *1 (S.D. Tex. Feb. 24, 2026) (holding that *Maldonado Bautista* arguments "fail because they are based on an interpretation of sections 1225 and 1226 that was rejected by the Fifth Circuit in *Buenrostro-Mendez*")(Hanen, J.); *Espina Gutierrez v. Bondi*, No. 4:26-CV-00708, 2026 WL 445499, at *2 (S.D. Tex. Feb. 17, 2026) (holding that *Maldonado Bautista* does not control and noting that "[t]his is particularly true in the present circumstances where the Fifth Circuit has now decided the same issue contrary to the Central District of California") (Eskridge, J.). The Court need go no further in rejecting any argument based on the *Maldonado Bautista* class action. However, should the Court further consider the *Maldonado Bautista*-based arguments, the Government addresses the issue in more detail below.

The recognition that the *Buenrostro* decision has effectively overruled *Maldonado Bautista* (assuming it had any preclusive force to begin with) is consistent with Supreme Court and Fifth Circuit caselaw recognizing the change-in-law exception to the application of res judicata. *See State Farm Mut. Auto. Ins. Co. v. Duel*, 324 U.S. 154, 162 (1945) (recognizing that an exception to res judicata traditionally exists “where between the time of the first judgment and the second ... there has been an intervening ... change in the law creating an altered situation”). The Fifth Circuit has recognized that changes in law can prevent the application of res judicata “where, between the first and second suits, there has been an intervening change in the law or modification of significant facts creating new legal conditions.” *Jackson v. DeSoto Parish School Board*, 585 F.2d 726, 729 (5th Cir.1978) (citations omitted); *see also Wilson v. Lynaugh*, 878 F.2d 846, 850–51 (5th Cir. 1989) (rejecting plaintiff’s attempt to escape the application of res judicata because he failed to “point to any Supreme Court or Fifth Circuit decision which constitutes an intervening change in the law”) (cleaned up). As a result, assuming for the sake of argument that *Maldonado Bautista* ever had any preclusive effect outside of California, it no longer does in light of the Fifth Circuit’s decision in *Buenrostro*.

The Government acknowledges that one district court has relied on the Supreme Court’s decision in *Federated Dep’t Stores, Inc. v. Moitie*, 452 U.S. 394, 398-99 (1981) to hold that *Maldonado Bautista* applies—even after *Buenrostro*.² But the Ninth Circuit Court of Appeals has stayed the effect of the *Maldonado Bautista* orders outside of the Central District of California. *See Maldonado Bautista v. DHS*, No. 26-1044, ORDER, (9th Cir. March 6, 2026). *Maldonado Bautista* now has no res judicata effect, assuming it ever did. Furthermore, the Supreme Court’s *Federated* decision is distinguishable from this action and the flurry of habeas cases being litigated

² *See Godoy-Reyes v. Bradford*, 4:26-cv-00541 (S.D. Texas February 17, 2026) (Rosenthal, J.).

across the country. In *Federated*, the district court held that plaintiffs failed to state a federal law claim, one plaintiff failed to appeal, and that plaintiff was prohibited from pursuing the claim when the Court of Appeals reversed the district court's decision. 452 U.S. 394, 395-98. The district court initially based its dismissal "on the ground that plaintiffs had not alleged an 'injury' to their 'business or property' within the meaning of § 4 of the Clayton Act, 15 U.S.C. § 15." *Id.* at 396. While the matter was on appeal, the Supreme Court issued a decision that changed the law, and based on that decision, the Court of Appeals reversed and remanded to the district court. *Id.* at 397. The plaintiff who had failed to appeal was barred from further action by res judicata. The plaintiff's failure to appeal was the key fact in the Supreme Court's holding. Indeed, the Court repeatedly referenced the fact that the party in *Federated* seeking to avoid the application of res judicata had not appealed: "unappealed adverse judgment", "failure to appeal", "no appeal has been taken", and "respondents here made the calculated choice to forgo their appeals." *Id.* Because the *Federated* decision turned on a party's failure to appeal, the Court did not address how its reasoning would apply to circumstances similar to those currently before the Court and many other courts across the country.

Here, unlike the party seeking to avoid res judicata in *Federated*, the Government has appealed the *Maldonado Bautista* declaratory judgment. The Government's position is that the *Maldonado Bautista* orders are fundamentally flawed, including that the *Maldonado Bautista* court lacked jurisdiction to issue the orders at issue. That appeal remains pending. Indeed, in recognition of its right to continue to develop the law, the Government litigated the appeal in *Buenrostro* after the *Maldonado Bautista* declaratory judgment was issued. Thus, in no way is this a case where the Government has "made a calculated choice to forgo" its appeal. *Federated*, 452 U.S. at 400-401. Relatedly, this case is also distinguishable from *Federated* because it

involves the Government’s ability to litigate an issue of national importance: a legal issue that is being considered in almost every judicial district in the country. The Government must be permitted to litigate cases in different districts and circuits—in order to develop the law. A single district court cannot freeze the law in the entire nation by certifying a class and issuing a class-wide declaratory judgment. *See United States v. Mendoza*, 464 U.S. 154, 158–59 (1984) (recognizing that, in cases involving the Government, “allowing only one final adjudication would deprive this Court of the benefit it receives from permitting several courts of appeals to explore a difficult question before this Court grants certiorari”); *see also Alberto Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411, at *9-11 (D. Neb. Dec. 29, 2025) (citing *Mendoza* and holding the *Maldonado Bautista* has no preclusive effect).

Another factor distinguishing this and other § 1225(b)(2) litigation from *Federated* is the fact that this is a habeas action involving the executive’s ability to enforce the immigration laws. Principles of res judicata and collateral estoppel do not apply in habeas proceedings. *See Sanders v. United States*, 373 U.S. 1, 6-7 (1963). The Supreme Court reasoned that this is so because such important issues are determined in habeas: life and liberty based on the proper application of the law and constitution. *Id.* The Supreme Court was, of course, referencing the rights of the detained. However, the principle of not applying res judicata against the Government in this case is also well-supported. The Government has a paramount interest in enforcing the immigration laws. *See Trump v. Hawaii*, 585 U.S. 667, 702 (2018) (recognizing “the admission and exclusion of foreign nationals is a fundamental sovereign attribute.”). Courts have refused to interfere with the executive branch’s prosecutorial discretion in the realm of immigration enforcement. *See U.S. v. Texas*, 599 U.S. 670, 678-79 (2023) (holding that “the Executive Branch possesses authority to decide ‘how to prioritize and how aggressively to pursue legal actions against defendants who

violate the law. . . . [which] extends to the immigration context”). Therefore, when this case is considered in light of the executive’s broad enforcement authority and the importance of the ongoing litigation across the country, combined with the fact that this is a habeas matter; the traditional principles that would cause a declaratory judgment to have preclusive effect do not apply.

Finally, this action lacks the unity of parties necessary for the application of res judicata. Because this is a habeas action, the warden of the facility where the alien is detained is necessarily a named respondent. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435, 443 (2004). The warden, in this case, and in any other case outside of California, will not have been a party in the *Maldonado Bautista* litigation. The proper respondent in the *Maldonado Bautista* action was the warden of the Adelanto, California detention facility. But, consistent with the procedural requirements of habeas litigation, the proper respondent in the present action is the warden of the relevant detention facility in the Southern District of Texas. In *Trump v. CASA*, 606 U.S. 831 (2025), the Supreme Court confirmed that federal district courts lack the authority to issue equitable relief as to non-parties. 606 U.S. at 850-51. Faithfully applying *Trump v. CASA*, the *Maldonado Bautista* court’s declaratory judgment cannot bind the wardens of facilities in Texas. *Id.* To reach the opposite conclusion would impermissibly place this Court at-odds with the Supreme Court by defying the “elementary principle” that “a court cannot adjudicate directly upon a person’s right without having him either actually or constructively before it.” *Gregory v. Stetson*, 133 U.S. 579, 586 (1890); *see also Trump v. CASA*, 606 U.S. at 843-44. As a result, the fact that the warden in this case was not a party in the *Maldonado Bautista* litigation is an additional reason why the declaratory judgment cannot bind the parties here.

In sum, the *Maldonado Bautista* declaratory judgment has no preclusive effect on this case.

C. PETITIONER'S DETENTION DOES NOT VIOLATE PROCEDURAL DUE PROCESS

Petitioner's procedural due process claim is without merit. Procedural due process challenges the "adequacy of the [] procedures" for making determinations regarding the deprivation of life, liberty, or property. *See Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). But here, the relevant statute requires detention, i.e., mandates detention without consideration of any factors, such as flight risk and dangerousness. 8 U.S.C. § 1225(b)(2)(A). A procedural due process theory is therefore wholly inapplicable here.

1. It cannot be that the mandatory detention statute at issue violates procedural due process, as any attacks are necessarily substantive.

Petitioner's request for a bond hearing would require a substantive inquiry into flight risk or dangerousness. However, 8 U.S.C. § 1225(b)(2)(A) mandates detention without any consideration of such factors. As such, Petitioner's due process claim is therefore necessarily a substantive due-process challenge, not a procedural one.

Multiple Supreme Court cases illustrate this point. In *Connecticut Dep't of Pub. Safety v. Doe*, 538 U.S. 1, 123 S.Ct. 1160, 155 L.Ed.2d 98 (2003), the statute at issue required sex offenders to register with the State so that their information could be published on a sex-offender registry. *Id.* at 4–5. John Doe, who had previously been convicted of a sex offense, claimed that the statute violated his procedural-due process rights by requiring him to register without a "hearing to determine whether" he was "currently dangerous." *Id.* at 4 (citation omitted); *see id.* at 8. The Court rejected Doe's claim, holding that "[p]laintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme." *Id.* at 8; *see id.* at 4 ("[D]ue process does not require the opportunity to prove a fact that is not material to the State's statutory scheme"). But what Doe sought to establish—that he was "not currently dangerous"—was "of no consequence" under the statute,

which required him to register based on his prior conviction alone. *Id.* at 7. The Supreme Court explained that because “any hearing on current dangerousness” would be “a bootless exercise” under the statute’s “substantive rule of law,” Doe’s procedural-due-process claim failed, and any claim that he was entitled to such a hearing “‘must ultimately be analyzed’ in terms of substantive, not procedural, due process.” *Id.* at 7–8 (citation omitted). The Supreme Court has been steadfast in applying this rationale. *See, e.g., Reno v. Flores*, 507 U.S. 292, 308, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993) (holding that a challenge to a regulation on the ground that it failed to require a determination of a detainee’s “interests” was “just [a] ‘substantive due process’ argument recast in ‘procedural due process’ terms”); *Michael H. v. Gerald D.*, 491 U.S. 110, 119–21, 109 S.Ct. 2333, 105 L.Ed.2d 91 (1989) (treating a request for an “evidentiary hearing” on an issue that the statutory scheme deemed “irrelevant” as a “substantive due process” claim). The Fifth Circuit has extended this rationale. In *Duarte v. City of Lewisville, Texas*, 858 F.3d 348 (5th Cir. 2017), a plaintiff challenged an ordinance prohibiting him from residing within 1,500 feet of “where children commonly gather.” *Id.* at 351. He argued that the ordinance did not give him adequate procedural protection since he was not a danger; however, the Fifth Circuit ruled that because “the fact that the plaintiff seeks to prove is of no consequence under the Ordinance,” the Ordinance does not violate procedural due process. *Id.* at 352 (cleaned up).

This case parallels quite symmetrically with the above cases, including *Connecticut Dep’t of Pub. Safety*, 538 U.S. 1. Just as in *Connecticut Dep’t of Pub. Safety* the statute *required* state sex offender registry, the statute here *requires* detention. And just as a hearing into the subject’s “dangerousness” was irrelevant there, it is irrelevant here, for the same reason. If, hypothetically, 8 U.S.C. § 1225(b)(2)(A) were to state that aliens like Petitioner “may be detained,” then Petitioner might have a colorable procedural due process claim. However, the statute clearly states that aliens

like Petitioner “shall be detained,” without a requirement to make “an inquiry into whether the alien poses a flight risk or a danger to society.” Therefore, procedural due process “does not entitle him to a hearing to establish a fact that is not material under the [applicable] statute.” *Id.* at 7. Petitioner’s only recourse, then, is to show that the mandatory detention provision is itself unlawful, as a matter of “*substantive* rule of law.” *Id.*

2. Even construing the claim as procedural in nature, it would still fail.

The above analysis makes clear that the relevant detention scheme does not violate procedural due process, as a challenge to the lack of a bond hearing to determine flight risk and dangerousness is not a procedural due process claim at all. But in any event, even *arguendo* it were construed as procedural in nature, the claim would still be unavailing under *Demore v. Kim*, 538 U.S. 510, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003), which addressed whether 8 U.S.C. § 1226(c) violated due process. That provision, like 8 U.S.C. § 1225(b)(2)(A) here, *requires* detention for a specific subset of aliens. *See* 8 U.S.C. § 1226(c) (instructing that aliens who are removable for having committed a specific set of crimes “shall” be detained during their removal proceedings). The Supreme Court found that this “statutory framework that permits [the detainee’s] detention without bail,” which made no allowances for consideration of bond, did not violate due process. *Demore*, 538 U.S. at 511. Rather, it ratified such practice as “a constitutionally permissible part of [the removal] process.” *Id.* at 531. That holding applies with equal force here to 8 U.S.C. § 1225(b)(2)(A), which also mandates detention. It is for this reason that on this issue, multiple judges in the Houston Division alone have categorically denied procedural due process claims, citing *Demore*. *See, e.g., Avila v. Tate*, 4:25-CV-05919, Dkt. No. 9 (S.D. Tex. 2026) (Hanen, J.) (rejecting the procedural due process claim as “precluded, at this juncture, by *Demore*”); *Giron v. Noem*, No. 4:26-CV-00086, 2026 WL 252370, at *2 (S.D. Tex.

Jan. 28, 2026) (Eskridge, J.) (same); *Jimenez v. Bradford*, 4:25-CV-05853, Dkt. No. 19 (S.D. Tex. 2026) (Lake, J.) (same).

Moreover, as explained by Judge Hendrix, procedural due process in this context extends only as far as those rights which “Congress has provided by statute.” *See Zuniga v. Lyons*, No. 1:25-CV-00221, 2025 WL 3755126, at *8 (N.D. Tex. Dec. 29, 2025) (quoting *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020)). Even construing Petitioner’s “procedural” due process claim here as procedural, it would fail for the same reason the claim is not procedural at all: “No part of the statute ‘says anything whatsoever about bond hearings.’” *Id.* (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 297, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018)).

3. **The Mathews test is inapplicable here.**

As the foregoing illustrates, Petitioner’s reliance on *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), is misplaced. *See* Dkt. 1 at ¶¶ 39-41. As it is well-taken, *Mathews* articulates a three-part balancing test for analyzing procedural due process claims, which considers “(A) the private interest affected; (B) the risk of erroneous deprivation of that interest through the procedures used; and (C) the governmental interest at stake.” *Nelson v. Colorado*, 581 U.S. 128, 135, 137 S.Ct. 1249, 197 L.Ed.2d 611 (2017). But that test has no application in the realm of substantive due process; after all, *Mathews* asks only whether the “procedures” for any deprivation of substantive rights are adequate. 424 U.S. at 335.

Indeed, attempting to apply the *Mathews* factors here shows just how inapplicable they are, which only further confirms that there can be no procedural due process violation. The second *Mathews* factor considers “the risk of erroneous deprivation of that interest through the procedures used.” *Nelson*, 581 U.S. at 135. Where, as here, the statute commands one result—mandatory detention—there necessarily cannot be a “risk of erroneous deprivation” from any purported lack

of procedure. Here, more procedure—specifically, a statutorily irrelevant inquiry as to whether the alien is a danger or flight risk—cannot change what the Fifth Circuit has already expressly ruled is the only lawful outcome under the applicable statute: mandatory detention. *See Buenrostro-Mendez*, 166 F.4th 494. Had 8 U.S.C. § 1225(b)(2)(A) instructed that bond may or must be considered, and based on factors like danger and flight risk, then perhaps the lack of a hearing to make those determinations would implicate procedural due process and create a “risk” of erroneous deprivation. But that is patently not the case here under the actual statutory text, pursuant to which notions of procedural due process, including application of the *Mathews* test, cannot maintain.

D. PETITIONER’S DETENTION DOES NOT VIOLATE SUBSTANTIVE DUE PROCESS

The mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not violate substantive due process. Substantive due process “bars outright ‘certain government actions regardless of the fairness of the procedures used to implement them.’” *Brennan v. Stewart*, 834 F.2d 1248, 1255 (5th Cir. 1988) (quoting *Daniels v. Williams*, 474 U.S. 327, 331, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986)). Substantive due process extends to “only ‘those fundamental rights and liberties which are, objectively, deeply rooted in this Nation’s history and tradition.’” *Dep’t of State v. Muñoz*, 602 U.S. 899, 910, 144 S.Ct. 1812, 219 L.Ed.2d 507 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720–21, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997)).

Detention without a bond determination pending removal proceedings is not unconstitutional. This issue has been repeatedly addressed by Supreme Court precedent. As a threshold matter, while “the Fifth Amendment entitles aliens to due process of law in deportation proceeding,” *Reno v. Flores*, 507 U.S. 292, 306, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993), in light of Congress’s “broad power over naturalization and immigration,” it “regularly makes rules that

would be unacceptable if applied to citizens,” *Mathews v. Diaz*, 426 U.S. 67, 79–80, 96 S.Ct. 1883, 48 L.Ed.2d 478 (1976). And applying this principle specifically in the context of detention during removal proceedings, the Supreme Court has held, time and time again, that such detention does not run afoul of the detainee’s constitutional rights. *See, e.g., Carlson v. Landon*, 342 U.S. 524, 538, 72 S.Ct. 525, 96 L.Ed. 547 (1952) (“Detention is necessary a part of th[e] deportation procedure.”); *Wong Wing v. United States*, 163 U.S. 228, 235, 16 S.Ct. 977, 41 L.Ed. 140 (1896) (“Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.”); *Demore*, 538 U.S. at 523 (observing that, as a matter of fundamental rights, “prior to 1907 there was no provision permitting bail for any aliens during the pendency of their deportation proceedings”). It is against this backdrop, and this controlling precedent, that the Supreme Court stated in no mistakable terms that “[d]etention during removal proceedings is a constitutionally permissible part of [the deportation] process.” *Demore*, 538 U.S. at 531.

Accordingly, any substantive due process claim challenging Petitioner’s detention pending removal proceedings fails. *See, e.g., Sanchez v. Smith*, No. 4:25-CV-05384, 2025 WL 3687914, at *2 (S.D. Tex. Dec. 19, 2025) (Eskridge, J.) (rejecting the claim that detention pending removal violates substantive due process); *Zuniga v. Lyons*, No. 1:25-CV-00221, 2025 WL 3755126, at *8 (N.D. Tex. Dec. 29, 2025) (Hendrix, J.) (holding that “the notion that substantive due process requires a bond hearing is untenable”); *Salazar-Gonzalez v. Noem*, 4:25-CV-04662, Dkt. No. 15 (S.D. Tex. Feb. 12, 2026) (Hanan, J.) (rejecting the due process claim in this context as “precluded” by Supreme Court precedent); *Jimenez v. Bradford*, 4:25-CV-05853, Dkt. No. 19 (S.D. Tex. 2026) (Lake, J.) (same).

E. PETITIONER’S CUSTODY DOES NOT VIOLATE THE *ACCARDI* DOCTRINE

Petitioner alleges that his detention violates the *Accardi* doctrine because DHS initially “reclassify[ied] Petitioner and similarly situated long-term interior residents as detained under 8 U.S.C. § 1225(b)(2)...” Dkt. 1 at ¶ 49. Having established above the statutory authority to detain individuals present in the United States who entered the country unlawfully without being admitted or paroled, Petitioner’s *Accardi* claim necessarily fails. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 495 (5th Cir. 2026); *See also Ordonez v. Frink*, No. 4:25-CV-06386, 2026 WL 143153, at *1 (S.D. Tex. Jan. 20, 2026) (“The construction given 8 USC §§ 1225... thus controls here and forecloses Petitioner’s claim for violation of the INA. Such construction also forecloses his Fourth Amendment claim, as it relies on assertion of the Government’s lack of authority to detain him under § 1225.”).

F. PETITIONER IS NOT ENTITLED TO RELIEF UNDER THE APA

Petitioner alleges that the Federal Respondent’s failure to provide him with a bond hearing violates the Administrative Procedure Act (“APA”). Dkt. 1 at ¶¶ 42-55. These allegations, a repackaging of his INA and due process claims, fail at the outset. First, the APA does not allow for judicial review of a challenge to Petitioner’s confinement. APA claims are permitted only when “there is no other adequate remedy in a court”. 5 U.S.C. § 704. Clearly, Petitioner has an adequate remedy to challenge his confinement – the instant habeas petition. Second, in order for there to be judicial review of agency actions under the APA, the agency action must be “final agency action”. *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 882 (1990) (quoting 5 U.S.C. § 704) (“Agency action made reviewable by statute and *final* agency action for which there is no other adequate remedy in a court are subject to judicial review”) (emphasis added). “Agency action must meet two conditions to be final: (1) ‘the action must mark the ‘consummation’ of the agency’s decision making process’ and (2) ‘the action must be one by which ‘rights or obligations have been

determined,’ or from which ’legal consequences will flow.’” *Patterson v. Def. POW/MIA Acct. Agency*, 343 F. Supp. 3d 637, 651 (W.D. Tex. 2018) (citing *Am. Airlines, Inc. v. Herman*, 176 F.3d 283, 287 (5th Cir. 1999)). Where there is no final agency action, federal courts lack subject matter jurisdiction. *Qureshi v. Holder*, 663 F.3d 778, 781 (5th Cir. 2011). Here, detention pending a decision on removal is not a final agency action. *Bhatia v. United States*, No. 16-cv-11, 2016 WL 6127799, at *2 (S.D. Miss. Sept. 19, 2016), *report and recommendation adopted*, 2016 WL 6126666 (Oct. 20, 2016) (citing *Qureshi*, 663 F.3d at 781).

Accordingly, this Court lacks jurisdiction to review Petitioner’s APA claim.

G. PETITIONER IS NOT ENTITLED TO ATTORNEY’S FEES AND COSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT.

Respondents note that the Equal Access to Justice Act does not authorize attorney’s fees for successful 28 U.S.C. § 2241 motions. *Barco v. Witte*, 65 F.4th 782, 785 (5th Cir. 2023). Accordingly, Petitioner is not entitled to such relief.

CONCLUSION

For the foregoing reasons, the Court should deny Petitioner’s request for habeas relief and grant the instant motion.

Dated: March 26, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on March 26, 2026, the foregoing was filed and served on all attorneys of record via the District's ECF system.

/s/ Evan S. Qarana
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