

1 ADAM GORDON
United States Attorney
2 ALLIE E. MALONE
Assistant U.S. Attorney
California Bar No. 317588
3 Office of the U.S. Attorney
880 Front Street, Room 6293
4 San Diego, CA 92101-8893
Telephone: (619) 674-9225
5 Facsimile: (619) 546-7751
Email: allie.malone.subke@usdoj.gov

6 Attorneys for Respondents

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

9 JONATHAN ALEXANDER CORADO
10 CASTILLO,

11 Petitioner,

12 v.

13 CHRISTOPHER LAROSE, et al.,

14 Respondents.

Case No.: 26-cv-2141-BJC-MSB

RESPONSE TO PETITION

15
16 **I. INTRODUCTION**

17 Petitioner is a native and citizen of El Salvador who most recently unlawfully
18 entered the United States on January 18, 2026, while concealed in the trunk of his
19 spouse's vehicle. He does not dispute that he is an arriving alien who is subject to
20 mandatory detention, but he alleges that his detention –of just over three months– is
21 unconstitutionally prolonged. As discussed below, Petitioner's current detention is well
22 within constitutional limits and his Petition should be denied accordingly.

23 **II. BACKGROUND**

24 Petitioner, a native and citizen of El Salvador, previously unlawfully entered the
25 United States near Calexico, California on or about June 28, 2014, and was removed
26 from the United States (to El Salvador) in March 2020 pursuant to a removal order dated
27 June 14, 2016. *See* Form I-213, attached as *Exhibit 1*. Upon his return to El Salvador,
28 he served a five-year prison sentence (from 2020 to 2025) in connection with a 2014

1 rape conviction. *Id.*

2 Petitioner then attempted to unlawfully reenter the United States at the San
3 Ysidro Port of Entry on January 19, 2026, while concealed in the trunk of his spouse's
4 vehicle. *Exhibit 1*. Shortly thereafter, he was encountered by a U.S. Customs and Border
5 Protection Officer who determined that Petitioner did not have valid documents to
6 legally enter the United States. *Id.* He was found to be inadmissible pursuant to Section
7 212(a)(7)(A)(i)(I) of the INA and was taken into DHS custody pending a credible fear
8 interview. *Id.* An asylum officer subsequently found that Petitioner demonstrated
9 credible fear, and on January 27, 2026, he was issued a Notice to Appear which initiated
10 removal proceedings against him. Within those proceedings, Petitioner will have the
11 opportunity to fully adjudicate his claims for relief from removal, and his case is
12 proceeding in an ordinary and timely manner before the immigration court. Because
13 there is no administratively final order of removal, Petitioner remains mandatorily
14 detained under 8 U.S.C. § 1225(b)(2)(A) and his detention of just over three months is
15 not unconstitutionally prolonged.

16 III. STATUTORY BACKGROUND

17 An “applicant for admission,” which 8 U.S.C. § 1225(a) defines as “[a]n alien
18 present in the United States who has not been admitted or who arrives in the United
19 States,” is subject to the detention framework set forth in 8 U.S.C. § 1225. That
20 provision provides for mandatory detention, “pending a final determination of credible
21 fear and persecution[.]” The United States Supreme Court has explained, “applicants
22 for admission fall into one of two categories, those covered by § 1225(b)(1) and those
23 covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section
24 1225(b)(1) applies to those, like Petitioner, “initially determined to be inadmissible due
25 to . . . lack of valid documentation[.]” *Id.* at 281. Once it is determined that the alien has
26 a credible fear of persecution, as was determined here, then “the alien *shall be detained*
27 for further consideration of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii)
28 (emphasis added).

1 **IV. ARGUMENT**

2 This habeas Petition should be denied because Petitioner’s detention is mandated
3 under 8 U.S.C. § 1225(b)(1)(B)(ii) and it has not been unconstitutionally prolonged.

4 **1. Petitioner is Subject to Mandatory Detention Under U.S.C. § 1225(b)(1)**

5 Petitioner does not dispute that he is an arriving alien. As discussed above,
6 arriving aliens are applicants for admission who are subject to expedited removal
7 proceedings unless—as occurred here—it has been determined that they have a credible
8 fear of persecution. In such cases, the INA mandates that “the alien *shall be detained*
9 for further consideration of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii)
10 (emphasis added); *see also Matter of M-S*, 27 I. & N. Dec. 509, 519 (AG 2019) (“all
11 aliens transferred from expedited to full [removal] proceedings after establishing a
12 credible fear are ineligible for bond”). Because Petitioner is an arriving alien found to
13 have a credible fear of persecution and placed in full removal proceedings, his detention
14 is mandated by section 1225(b) until the conclusion of his removal proceedings. *See*
15 *Jennings*, 583 U.S. at 302 (“§§ 1225(b)(1) and (b)(2) mandate detention of aliens
16 throughout the completion of applicable proceedings”).

17 Petitioner requests that the Court order him released from ICE custody. But the
18 Supreme Court has rejected such contention, explaining: “Read most naturally, §§
19 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain
20 proceedings have concluded . . . Until that point, however, nothing in the statutory text
21 imposes any limit on the length of detention. And neither § 1225(b)(1) nor §§
22 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297.
23 Except for temporary parole granted at the discretion of the Attorney General “for
24 urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5),
25 “there are no *other* circumstances under which aliens detained under § 1225(b) may be
26 released.” *Id.* at 300 (emphasis in original).

27 Since Petitioner’s removal proceedings remain pending and he has not been
28 granted temporary parole, section 1225(b)(1)(B) mandates his detention until the

1 proceedings have concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end,
2 detention under § 1225(b) must end as well.”). Because Petitioner is lawfully detained
3 under section 1225(b)(1)(B) and the statute does not entitle him to release at this time,
4 his petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151
5 JLS-KSC, 2023 WL 3103811, at *3 (S.D. Cal. April 25, 2023) (applying *Jennings* to
6 find that the petitioner had no right to release or a bond hearing).

7 **2. Petitioner’s Detention of Just Over Three Months is not Unconstitutionally**
8 **Prolonged**

9 As an arriving alien, Petitioner is subject to mandatory detention under 8 U.S.C.
10 § 1225(b)(1), which does not “impose[] any limit on the length of detention” or “say[]
11 anything whatsoever about bond hearings.” *Jennings* 583 U.S. 281 at 297. The only
12 circumstance in which the Court may consider Petitioner’s release is if his current
13 detention has become unreasonably prolonged. Absent such a showing, mandatory
14 detention remains lawful, and Petitioner is not entitled to release.

15 In *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953), a
16 noncitizen in exclusion proceedings filed a habeas petition claiming that his prolonged
17 detention without a hearing violated his constitutional rights. The Supreme Court,
18 however, concluded that the noncitizen’s continued detention did not deprive him of
19 any due process rights and rejected his petition. *Id.* at 212. In doing so, the Supreme
20 Court stated: “[A]n alien on the threshold of initial entry stands on a different footing:
21 ‘Whatever the procedure authorized by Congress is, it is due process as far as an alien
22 denied entry is concerned.’” *Id.*

23 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
24 (2020), the Supreme Court once again addressed the due process rights of individuals
25 like Petitioner—inadmissible arriving noncitizens seeking initial entry into the United
26 States. The Supreme Court stated that such individuals have no due process rights “other
27 than those afforded by statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in
28 respondent’s position has only those rights regarding admission that Congress has

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

16 Since the Supreme Court’s decision in *Thuraissigiam*, numerous published
17 decisions have acknowledged its impact on the precise Fifth Amendment Due Process
18 Clause that Petitioner raised in this petition: Does an alien detained under 8 U.S.C. §
19 1225(b)(1) have a due process right to release or a bond hearing after being detained for
20 a certain period of time? The answer is no. *See Mendoza-Linares v. Garland*, No. 21-
21 cv-1169-BEN (AHG), 2024 WL 3316306, *2 (S.D. Cal. June 10, 2024) (“[T]he Court
22 finds that Petitioner has no Fifth Amendment right to a bond hearing pending his
23 removal proceedings.”); *Zelaya-Gonzalez*, 2023 WL 3103811. *3 (S.D. Cal. Apr. 25,
24 2023) (same); *Rodriguez Figueroa v. Garland*, 535 F. Supp. 3d 122, 126–27 (W.D.N.Y.
25 2021); *Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 336 (W.D.N.Y. 2021); *St.*
26 *Charles v. Barr*, 514 F. Supp. 3d 570, 579 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529
27 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

28 Petitioner’s claim fails *even if* the Court infers a constitutional right against

1 prolonged mandatory detention because the length of his detention has not crossed the
2 threshold that courts have found to be unreasonable. Courts generally “become
3 extremely wary of permitting continued custody absent a bond hearing” once detention
4 continues past a year. *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL
5 3028093, at *4 (S.D. Cal. April 20, 2023) (citation omitted); *see also Durand v. Allen*,
6 No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607, at *5 (S.D. Cal. Feb. 21, 2024)
7 (detained over two-and-a-half years); *Sanchez-Rivera v. Matuszewski*,
8 No. 22-cv-1357-MMA (JLB), 2023 WL 139801, at *6 (S.D. Cal. Jan. 9, 2023) (three
9 years); *Yagao v. Figueroa*, No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at
10 *2 (S.D. Cal. March 29, 2019) (two years). However, Petitioner’s detention falls
11 significantly short of the length courts have found to raise due process concerns.

12 In similar cases, courts in this district have applied the test in *Lopez v. Garland*,
13 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). *See, e.g., Sanchez-Rivera*, 2023 WL 139801,
14 at *5 (“[W]hile the *Mathews* [*v. Eldridge*, 424 U.S. 319 (1976)] factors may be well-
15 suited to determining whether due process requires a second bond hearing, they are not
16 particularly dispositive of whether prolonged mandatory detention has become
17 unreasonable in a particular case.”); *D.D. v. LaRose, et al.*, Case No. 25-cv-02581-BJC-
18 JLB, ECF No. 10 at 7 (S.D. Cal. Oct. 22, 2025) (considering a similar claim and finding
19 “the three-factor balancing test from *Lopez* . . . provides an appropriate assessment of
20 the possible constitutional implications of Petitioner’s ongoing detention without
21 process.”). Under *Lopez*, to determine whether continued mandatory detention has
22 become unreasonable, “the Court will look to the total length of detention to date, the
23 likely duration of future detention, and the delays in the removal proceedings caused by
24 the petitioner and the government.” 631 F. Supp. 3d at 879 (emphasis added).

25 The *Lopez* factors weigh against finding that Petitioner’s detention is prolonged.
26 First, Petitioner has been detained for just over three months (since January 17, 2026).
27 Courts in this district have found detention for much longer periods to be unreasonably
28 prolonged, but Petitioner’s current detention since January 17, 2026 is not unreasonable

1 under any applicable legal standard. *See Durand v. Allen*, No. 3:23-cv-00279-RBM-
2 BGS, 2024 WL 711607 at *5 (S.D. Cal. Feb. 21, 2024) (32 months); *Sibomana*, 2023
3 WL 3028093, at *4 (19 months); *Sanchez-Rivera*, 2023 WL 139801 at *6 (three years);
4 *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019
5 WL 1429582, at *1 (42 months). Second, the facts do not suggest that the likely duration
6 of future detention weighs in Petitioner’s favor considering his immigration
7 proceedings are moving along as expected and in a timely manner. And finally, there is
8 no indication that the government has caused any delay in the removal proceedings.
9 Accordingly, Petitioner remains subject to mandatory detention.

10 **V. CONCLUSION**

11 For the reasons stated herein, Respondents respectfully request that the Court
12 dismiss this habeas Petition.

13 DATED: April 23, 2026

Respectfully submitted,

14 ADAM GORDON
15 United States Attorney

16 *s/ Allie E. Malone*
17 ALLIE E. MALONE
18 Assistant United States Attorney
19 Attorneys for Respondents
20
21
22
23
24
25
26
27
28