UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-02287-NEB-JFD

Rey Adolfo Andrade Flores,

Petitioner,

v.

BLANCHE, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed this petition for a writ of habeas corpus seeking immediate release from custody or, in the alternative, for a bond hearing. Federal Respondents[1] submit this response to Petitioner's habeas petition. Any facts that are not specifically admitted herein are denied. The Court should deny Petitioner's request for release or a bond hearing.

Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This conclusion is appropriate under long standing Supreme Court precedent and recent Eighth Circuit precedent. The Eighth Circuit Court of Appeals recently held that 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. *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).

[1] This response is not being submitted on behalf of any state or local entity.

The *Avila* decision is binding precedent and requires that the Court deny this habeas petition. The Fifth Circuit also decided consistent with *Avila* in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026).

BACKGROUND

Respondents do not dispute the salient facts alleged in the Petition. Petitioner, a citizen and native of Mexico, entered the United States on or about March 15, 2001, without inspection. Pet. ¶16.

On August 14, 2018, Petitioner was placed into removal proceedings with the issuance of a Notice to Appear, charging him as removable under section 212(a)(6)(A)(i) of the Immigration and Nationality Act. *See Declaration of Ivan Sabin.*

On or about March 2, 2026, Petitioner was convicted of DWI in Stearns County District Court, and on March 6, 2026, he was convicted of operating a motor vehicle under the influence of alcohol in Wright County District Court. *See Sabin Declaration.*

On March 7, 2026, ICE/ERO issued an Immigration Detainer (Form I-247A) to the Stearns County Jail, and on March 22, 2026, Petitioner was taken into ICE/ERO custody following the issuance of a Warrant for Arrest of Alien (Form I-200). *See Sabin Declaration.*

On April 20, 2026, Petitioner filed a Motion for Voluntary Departure. On April 21, 2026, the Immigration Judge denied the Motion and ordered Petitioner removed to Mexico after he failed to timely file any applications for relief. [2] *See Sabin Declaration.*

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[2] After considering the evidence, the Immigration Judge denied the request due to his lack of ties and criminal history. *See Sabin Declaration.*

Petitioner is currently being held in ICE custody. *See Sabin Declaration.*

ARGUMENT

I. No Violation of Due Process Rights

Petitioner's due-process arguments in this case should be denied. In truth, Petitioner is not challenging the *procedures* available under the statute, but Congress's *substantive* determination that aliens covered by § 1225(b)(2)(A) are not entitled to a bond hearing. Petitioner's true claim sounds in *substantive* due process, i.*e.*, that the government cannot constitutionally detain aliens in Petitioner's situation *notwithstanding* the fact that they are subject to mandatory detention by statute. But Petitioner has not attempted to satisfy the standard for a substantive due process claim. Petitioner does not purport to identify any fundamental right, so his substantive due process claim must fail so long as mandatory detention under § 1225(b)(2)(A) is "rationally related to legitimate government interests." *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997).

The Supreme Court addressed a similar situation in *Demore v. Kim*, 538 U.S. 510 (2003), and concluded that mandatory detention pending removal proceedings does not violate an alien's due process rights. The Demore detainee argued that since deportation proceedings are indefinite, his indefinite detention violates the Due Process Clause. *Id.* However, the Court rejected that premise, holding "detention under Section 1226(c) has a definitive end-point—the end of the removal proceedings—and thus a noncitizen is not subject to indefinite detention." *Id.* at 529. While *Demore* analyzed detention under Section 1226(c), the detention provisions in Section 1226(c) are analogous to the provisions in Section 1225(b). *See Rodriguez v. Jeffreys*, Case No. 8:25-cv-714, 2025 WL 3754411, at *16 (D. Neb. Dec. 29, 2025). Thus, Petitioner's due process claim "must fail [and] [d]etention during removal proceedings is a constitutionally permissible part of the process." *Demore*, 538 U.S. at 531.

Recognizing the claim is foreclosed, Petitioner raises procedural due process. The Constitution prohibits the federal government and States from "depriv[ing]" a "person" of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. The Supreme Court has recognized two types of due-process claims. *See Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024). A procedural-due-process claim takes as given the substantive determinations that would justify a deprivation of life, liberty, or property, but challenges the "adequacy of the[] procedures" for making those determinations. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

For example, the statute in *Mathews* made the availability of disability benefits turn on whether a person is "completely disabled" within the meaning of the statute. *Id.* at 323, 336. The procedural due process claim did not challenge the statute's substantive criteria for who may receive benefits, but the adequacy of the procedures available to test whether a person fits within the criteria. *Id.* at 325-26. By contrast, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation "at all, no matter what process is provided." *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Petitioner has not challenged the adequacy of the procedures for determining whether Petitioner is an "applicant for admission," a matter determined in immigration proceedings, and that subjects Petitioner to mandatory detention under § 1225(b)(2)(A). Instead, Petitioner argues that the determination that Petitioner is an applicant for admission and "not clearly and beyond a doubt entitled to be admitted," 8 U.S.C. § 1225(b)(2)(A), is a constitutionally insufficient basis on which to justify the deprivation of liberty. Petitioner's due process argument is substantive, not procedural, in nature.

Congress decided as a substantive policy matter to impose mandatory detention on all applicants for admission, such as Petitioner. Whether Petitioner is a flight risk or danger is irrelevant under that policy choice. Due process does not require procedures to adjudicate immaterial facts. What Petitioner is asking this Court to do is override Congress's substantive judgment that all applicants for admission must be detained regardless of whether they are dangerous or flight risks. Procedural due process can do no such thing.

The Supreme Court has repeatedly distinguished between noncitizens who have been lawfully admitted and those who have not. Most recently, the Court reaffirmed that, although some aliens who have established connections in this country may possess due process rights in removal proceedings, "an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *Dep't of Homeland Security v. Thuraissigiam,* 591 U.S. 103, 137 (2020). And because an alien apprehended after unlawful entry remains in that non-admitted status for these purposes, such a person possesses only those rights Congress has provided by statute. *Id.* at 137–40. The statute at issue here is § 1225(b), and the rights afforded under that statute do not include freedom from mandatory detention during removal proceedings. Petitioner therefore cannot define his claimed liberty interest as though he were a lawfully admitted alien challenging restrictions on an already-secured status.

The Supreme Court has elsewhere made clear that *lawful admission*—not physical entry—is the touchstone for when aliens gain due process interests that could potentially require procedures beyond what Congress has provided (and thus all that the due process clause requires under the entry fiction doctrine). For example, in *Landon v. Plasencia*, 459 U.S. 21 (1982), the Court observed that only "*once an alien gains admission* to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[]." *Id.* at 32 (emphasis added). "Th[is] rule," the Court explained, "rests on [the] fundamental proposition" that "the power to admit or exclude aliens is a sovereign prerogative," and "the Constitution gives the political department of the government plenary authority to decide which aliens to admit." *Id.*

Those conclusions put Petitioner's due process claims in this case on shaky ground because he is essentially challenging the constitutionality of § 1225(b)'s mandatory detention provisions. "The rule has been clear for decades: detention during deportation proceedings is constitutionally valid." *Banyee v. Garland*, 115 F.4th 928, 931 (8th Cir. 2024) (cleaned up); *see also Demore*, 538 U.S. at 523. Eighth Circuit and Supreme Court precedent says that mandatory detention under § 1226(c) passes constitutional muster because "the government can detain an alien for as long as deportation proceedings are still '*pending*.'" *Banyee*, 115 F.4th at 933 (original emphasis) (cleaned up).

Petitioner does not acknowledge *Banyee* or the fundamental defect in his Due Process challenge to detention under § 1225(b). That is a mistake. In the context of mandatory detention during removal proceedings, the Supreme Court has "already done whatever balancing is necessary." *Banyee*, 115 F.4th at 933. To the extent Petitioner disagrees with that balancing, he must take it up with Congress or the Supreme Court itself. Petitioner's Due Process claims in this case fail as a matter of law, and his habeas petition should therefore be denied.

The Court should not reach a different result if it is inclined to re-run the Supreme Court's analysis. *Mathews* requires the Court to consider: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. Here, all three factors weigh against finding a Due Process violation.

First, Petitioner is not in the United States with lawful status. Petitioner may still have an interest to remain in the United States, but his interest is defined by statute. *See Thuraissigiam*, 591 U.S. at 107.

Second, the risk of erroneous deprivation is low. Mandatory detention under § 1225(b)(2)(A) is triggered by clear statutory criteria: the alien is present without admission and is not clearly entitled to admission. Procedural safeguards, including habeas review under 28 U.S.C. § 2241 further reduce any residual risk. *Demore*, 538 U.S. at 523;

Gutierrez-Soto v. Sessions, 317 F. Supp. 3d at 924-25. Judicial review is limited to ensuring statutory compliance and does not require additional procedural steps. *United States v. Nishimura Ekiu*, 142 U.S. 651 (1892) at 659.

Third, the government's strongest interest in detaining someone pending their removal proceedings is to make sure that the person appears for immigration proceedings and to ensure we are complying with how Congress set up this aspect of immigration law.

II. Petitioner's Warrantless Arrest was Lawful

Petitioner argues that his arrest was warrantless and therefore, he should be released immediately. The Eighth Circuit has held Section 1225 applies, and this Section makes no mention of a warrant, only an inspection by an immigration official. Under 8 U.S.C. § 1357(a)(2), an immigration officer may arrest an alien without a warrant if the officer has "reason to believe" the alien is in the United States illegally and is likely to escape before a warrant can be obtained. However, under Section 1225(b)(2)(A), if an immigration official following inspection determines the alien is not clearly entitled to stay in the country, arrest and detention is mandatory. The key difference between these statutes is the knowledge of the official. "Reason to believe" is a different standard than knowledge. "[R]easonable suspicion means only that immigration officers may briefly stop the individual and inquire about immigration status. . . . Only if the person is illegally in the United States may the stop lead to further immigration proceedings." *Noem v. Vasquez Perdomo*, 146 S. Ct. at *3 (Kavanaugh, J., concurring). The Supreme Court acknowledged in 1984 that deportation proceedings are not meant to punish past action but prevent continuing illegal action. To allow someone subject to mandatory detention to go free would "require the courts to close their eyes to ongoing violations of the law." *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1046 (1984). An immigration official who has knowledge an applicant for admission has no clear right to be in the United States is required to hold that person in detention until the removal proceedings are completed. Under Section 1357(a)(2), a flight risk is required because the immigration official only has a reason to believe the person is here illegally, whereas with knowledge the assessment of flight risk is not needed because Section 1225 requires detention.

In this case, the Record of Deportable/Inadmissible Alien and Notice to Appear make it clear that, following inspection, immigration officials knew Petitioner was an illegal alien not entitled to be admitted in accordance with Section 1225(b)(2)(A). Doc. Nos. 6-4–6-5. Consequently, ICE arrested and detained Petitioner and later was issued Removal Order by an Immigration Jude. *See Sabin Declaration.* Therefore, Petitioner did not suffer an unlawful arrest under the Fourth Amendment, 8 U.S.C. § 1357(a)(2) or 8 C.F.R. 287.3(d).

III. No Violation of the Administrative Procedure Act

Petitioner's claim under the Administrative Procedure Act ("APA") fails because APA claims are not properly raised in a habeas proceeding and exceed the limited scope of habeas review. Habeas corpus under 28 U.S.C. § 2241 is directed to challenges concerning the fact or duration of custody, not to broad collateral attacks on agency decision-making or generalized challenges to immigration enforcement policies. *See Department of Homeland Security v. Thuraissigiam*, 140 S. Ct. 1959, 1969 (2020) ("The writ of habeas corpus does not authorize courts to supervise all executive detention decisions.").

The APA separately limits judicial review where another statute provides an adequate remedy or where the challenged action is committed to agency discretion by law. *See* 5 U.S.C. §§ 701(a), 704. Here, Congress established a detailed statutory and administrative review framework governing immigration detention and custody determinations under 8 U.S.C. § 1226, including review before an immigration judge and the BIA. That statutory scheme, not the APA, provides the appropriate mechanism for relief. Moreover, Congress expressly restricted judicial review over discretionary custody determinations. *See* 8 U.S.C. § 1226(e).

To the extent Petitioner seeks to challenge discretionary detention decisions, through the APA, such claim is not cognizable in this habeas action. Courts routinely decline to entertain APA claims that are intertwined with immigration detention or removal proceedings where Congress has provided a separate review structure. *See, e.g., Jennings v. Rodriguez,* 138 S. Ct. 830, 841 (2018).

Accordingly, Petitioner's APA claim is procedurally improper in this habeas action, exceeds the narrow scope of habeas review, and does not proceed.

IV. Petitioner is Alternatively Mandatory Detained Under the Laken Riley Act

Arguendo, if the Court finds the Petitioner should be detained under §1226, the Petitioner is mandatorily detained under the Laken Riley Act. Petitioner has been charged with domestic assault and is therefore subject to mandatory detention under the Laken Riley Act. The Laken Riley Act amends the categories of aliens subject to mandatory detention under INA § 236(c), by adding additional crimes requiring mandatory detention. The Laken Riley Act requires detention of any alien who is, in part, inadmissible under INA § 212(a)(7), like Petitioner, and who "is charged with, arrested for . . . acts which constitute the essential elements of any . . . serious bodily injury to another person." Pub. L. 119-1. The Laken Riley Act also amended the judicial review provision at INA § 236(e), 8 U.S.C. § 1226(e). The provision as amended provides that no court "may set aside any action or decision by the Attorney General" under INA § 236, 8 U.S.C. § 1226, "regarding the detention of any alien or the revocation or denial of bond or parole." INA § 236(e), 8 U.S.C. § 1226(e).

Here, Petitioner is charged as inadmissible under INA § 212(a)(7) and he has been charged with operating a motor vehicle under the influence of alcohol, bringing him squarely within the mandatory detention requirements of the Laken Riley Act. The Laken Riley Act further removes the ability of this Court to set aside the decision to detain the Petitioner for the same. The Court should therefore deny this habeas petition.

VI. Evidentiary Hearing

Federal Respondents believe the Court can rule on this petition without holding an evidentiary hearing. The facts are not likely to be disputed, and the only issues before the Court are ones of legal interpretation capable of resolution on the parties' submissions.

ADDITIONAL REQUEST

The Federal Respondents acknowledge the importance of complying with any order this Court might issue regarding Petitioner's release. The U.S. Attorney's Office has been advised that U.S. Immigration and Customs Enforcement is devoting additional resources to the agency's inquiry email account for the St. Paul Field Office—both in terms of monitoring and responding to inquiries, and in terms of resolving release-related issues that detainees or their attorneys raise via messages to the address. The email address is StPaul.Outreach@ice.dhs.gov, and the Federal Respondents respectfully request that any order requiring Petitioner's release include a direction that questions about release logistics, detainee property, or conditions of release be sent to that email address in the first instance. This approach will lead to the fastest and most efficient resolution of any such issues.

CONCLUSION

This Court should follow the Supreme Court's longstanding precedent regarding the due process rights of people who were never admitted to this country. Respondents respectfully request that the Court deny this petition.

Dated: May 18, 2026

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