

1 ADAM GORDON
United States Attorney
2 MICHAEL D. WALLACE
Assistant United States Attorney
3 Maryland Bar No. 9912160256
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619)546-8714
Email: Michael.Wallace4@usdoj.gov
6 Attorneys for Respondents
7

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 RAMOS ALCALA ANGEL,

Case No.: 26-cv-2786-RSH-MSB

12 Petitioner,

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

13 v.
14

15 CHRISTOPHER LAROSE,

16 Respondent.
17
18
19
20
21
22

23 I. INTRODUCTION

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

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 Petitioner is a native and citizen of Mexico, who entered the United States
3 illegally without inspection three miles east of the Otay Mesa Port of Entry, California,
4 on November 20, 2025. Exhibit (Ex.) 1 (Form I-213).¹ He was determined to be
5 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and taken into Immigration and
6 Customs Enforcement (ICE) custody pursuant to 8 U.S.C. § 1225(b). Petitioner was
7 issued a discretionary Notice to Appear (NTA) on November 27, 2025. Ex. 2 (NTA).
8 The filing of the NTA initiated removal proceedings, pursuant to 8 U.S.C. § 1229a,
9 against Petitioner, and those proceedings remain ongoing. Within his removal
10 proceedings under § 1229a, Petitioner has applied for relief from removal before an
11 immigration judge (IJ), including his non-legal permanent resident cancellation of
12 removal application.

13 The Notice to Appear scheduled Petitioner’s initial master calendar hearing for
14 December 11, 2025. *Id.* The hearing was advanced to December 4, 2025. Ex. 3
15 (Adjournment History); Ex. 4. (Adjournment Codes). Petitioner requested and received
16 a bond hearing on March 20, 2026, but withdrew his request prior to the immigration
17 judge’s ruling. Ex. 5 (IJ Bond order). Petitioner’s master calendar hearing has been reset
18 at the request of the Petitioner to obtain counsel, submit his asylum claim, and gather
19 and submit evidence on four occasions resulting in about four months of delay until
20 April 24, 2026, at which his individual merits hearing was scheduled for May 28, 2026.
21 *Id.* The immigration judge held a prior hearing on March 17, 2026, regarding
22 Petitioner’s competency. *Id.* Petitioner’s removal proceedings remain pending. As a
23 result, there is no administratively final order of removal at this time. Petitioner remains
24 mandatorily detained under 8 U.S.C. § 1225(b)(2)(A).

25
26
27
28 ¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from Immigration and Customs Enforcement (ICE) counsel.

III. STATUTORY BACKGROUND

Section 235 of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1225, applies to an “applicant for admission,” defined as an “alien present in the United States who has not been admitted” or “who arrives in the United States.” 8 U.S.C. § 1225(a)(1). “[A]pplicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid document.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if “the alien indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii). “If the officer determines at the time of the interview that [the] alien has a credible fear of persecution . . . , the alien *shall be detained* for further consideration of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). If the alien does not indicate an intent to apply for asylum, does not express a fear of persecution, or is “found not to have such a fear,” they “shall be detained . . . until removed” from the United States. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (“for aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”)

1 (citing *Jennings*, 583 U.S. at 299). However, DHS has the sole discretionary authority
2 to temporarily release on parole “any alien applying for admission to the United States”
3 on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.”
4 *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

5 IV. ARGUMENT

6 A. Petitioner’s Claim is Barred Under 8 U.S.C. § 1252(g).

7 Respondents contend that judicial review over Petitioner’s claim is barred by 28
8 U.S.C. § 1252(g), which states that “[n]o court shall have jurisdiction to hear any cause
9 or claim by or on behalf of any alien arising from the decision or action by the Attorney
10 General to commence proceedings, adjudicate cases, or execute removal orders.”

11 Here, Petitioner’s claims of unlawful detention necessarily arise from the
12 Department of Homeland Security’s² decision to commence removal proceedings
13 against him because that decision unavoidably triggers mandatory detention under 8
14 U.S.C. § 1225(b)(2) until the conclusion of his removal proceedings. See, e.g., *Wang v.*
15 *United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at *6 (C.D. Cal. Aug.
16 18, 2010) (finding section 1252(g) bars judicial review of false imprisonment claim
17 because the plaintiff’s detention arose from the decision to commence removal
18 proceedings, and in turn, the “statute mandating detention during removal proceedings
19 of a person charged as an ‘arriving alien.’”).

20 As explained by another district court, removal proceedings are commenced
21 when, as occurred here, “the alien is issued a Notice to Appear before an immigration
22 court.” *Herrera-Correra v. United States*, No. CV 08–2941 DSF (JCx), 2008 WL
23 11336833, at *3 (C.D. Cal. Sept. 11, 2008); see also Ex. 2. The government “may arrest
24 the alien against whom proceedings are commenced and detain that individual until the
25 conclusion of those proceedings.” *Herrera-Correra*, 2008 WL 11336833, at *3. “Thus,
26

27 ² “In 2002, Congress transferred the Attorney General’s immigration enforcement
28 responsibilities to the Secretary of Homeland Security.” *Ibarra-Perez v. United States*,
154 F.4th 989, 995 n.2 (9th Cir. 2025).

1 an alien’s detention throughout this process arises from the [government’s] decision to
2 commence proceedings” and review of claims arising from such detention is barred
3 under section 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007));
4 *see also Wang*, 2010 WL 11463156, at *6.

5 Because this habeas petition brings a claim “arising from the decision or action
6 by the [government] to commence proceedings,” review of Petitioner’s claim is barred
7 under 8 U.S.C § 1252(g). Thus, the Court must dismiss the petition.

8 **B. Petitioner is Lawfully Detained Under the INA and the Constitution.**

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

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

12 Petitioner’s claim fails because he is subject to mandatory detention under 8
13 U.S.C. § 1225(b)(2). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is
14 defined as an “alien present in the United States who has not been admitted or who
15 arrives in the United States.” As explained above, applicants for admission “fall into
16 one of two categories, those covered by § 1225(b)(1) and those covered by §
17 1225(b)(2).” *Jennings*, 583 U.S. at 287.

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

1 urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5),
2 “there are no *other* circumstances under which aliens detained under § 1225(b) may be
3 released.” *Id.* at 300 (emphasis in original).

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

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

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

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). “*Mezei* therefore suggests that the Court found that excludable aliens simply
9 enjoy no constitutional right to be paroled into the United States, even if the only
10 alternative is prolonged detention.” *Barrera-Echavarria v. Rinson*, 44 F.3d 1441, 1450
11 (9th Cir. 1995) (en banc), *superseded by statute as stated in Xi v. INS*, 298 F.3d 832
12 (9th Cir. 2002). That is, “Supreme Court precedent squarely precludes a conclusion
13 that [excludable aliens] have a constitutional right to be free from detention, even for
14 an extended time.” *Id.* at 1449. *Barrera-Echavarria*’s application—at least as it relates
15 to arriving aliens—has never been overruled. The Ninth Circuit continues to cite
16 *Barrera-Echavarria*’s due process (i.e., non-statutory) analysis. *See Llamas-Lopez v.*
17 *Barr*, 825 F. App’x 523, 524 (Mem.) (9th Cir. 2020); *Angov v. Lynch*, 788 F.3d 893,
18 898 (9th Cir. 2015) (Angov’s “claim of a procedural due process violation simply can’t
19 be squared with the Supreme Court’s teachings in *Mezei*” and “our circuit’s settled
20 precedent”).

21 A district court within this Circuit provided a thorough summary of “the law of
22 the Ninth Circuit as it currently stands [including *Barrera-Echavarria*, and its
23 treatment by *Rodriguez II*, *Rodriguez III*, and *Rodriguez V*],” in *Ibarra-Perez v.*
24 *Howard*, 468 F. Supp. 3d 1156, 1177 (D. Arizona 2020). The court there reasoned that
25 “Respondents have the better side of this argument” and rejected the notion that an
26 arriving alien detained under § 1225(b) was entitled to a bond hearing, because it “must
27 do its best to discern and apply the law[.]” The above must be true because *Mezei* “is
28 still good law.” *See Aracely, R v. Nielsen*, 319 F. Supp. 3d 110, 145 (D.D.C. 2018).

1 “*Mezei* therefore remains binding precedent for our court—which means the Due
2 Process Clause does not forbid [petitioner’s] detention.” *Martinez v. Larose*, 980 F.3d
3 551, 554 (6th Cir. 2020) (Mem.) (Thapar, J., concurring in the denial of rehearing *en*
4 *banc* based on *Mezei* and *Thuraissigiam*).

5 And because it remains good law, *Mezei* “is directly on point and controls this
6 case.” *Poonjani v. Shanahan*, 319 F. Supp. 3d 644 (S.D.N.Y. 2018) (denying bond
7 because—for an alien on the “threshold of initial entry”—due process is “whatever
8 procedures has been authorized by Congress”). Other courts agree. *See Arana v. Arteta*,
9 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (citing *Poonjani*); *Acosta v. Arteta*, 2026
10 WL 263470 (S.D.N.Y. Feb. 2, 2026) (citing *Poonjani*); *Mendez Ramirez v. Decker*,
11 612 F. Supp. 3d 200 (S.D.N.Y. 2020) (citing *Poonjani*); *Gonzalez Aguilar v. Wolf*, 448
12 F. Supp. 3d 1202, 1212 (D.N.M. 2020) (“*Mezei* and its progeny do not hold that
13 Petitioner has no due-process rights; rather, the applicable statutory process shapes her
14 procedural due-process rights. Because Petitioner has no statutory right to release or a
15 bond hearing, she has no procedural due-process right to the relief requested.”).

16 District courts in this Circuit that disagree generally neither grapple with *Mezei*
17 nor *Barrera-Echavarria*. *See Ibarra-Perez*, 468 F. Supp. 3d at 1177, fn. 25 (citing
18 *Poonjani* and rejecting the leading “prolonged detention” case, *Banda v. McAleenan*,
19 385 F. Supp. 3d 1099 (W.D. Wash. 2019), because *Banda* did not even discuss
20 *Barrera-Echavarria*, the “entry fiction” doctrine, or portions of *Rodriguez II and III*
21 and “seem to adopt *Barrera-Echavarria*’s logic as it pertains to arriving aliens”).

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

1 holding necessarily included a determination that Mezei’s detention was legal as
2 well.”); *see Zadvydas*, 533 U.S. at 693 (stating *Mezei* involved “indefinite detention”).
3 *Mezei* has direct application here; this precedent thus controls “until explicitly
4 overruled by that Court.” *United States v. Esqueda*, 88 F.4th 818, 828 (9th Cir. 2023).

5 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
6 (2020), the Supreme Court once again addressed the due process rights of inadmissible
7 arriving noncitizens seeking initial entry into the United States. The Supreme Court
8 stated that such individuals have no due process rights “other than those afforded by
9 statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in respondent’s position has only
10 those rights regarding admission that Congress has provided by statute.”). The
11 Supreme Court noted that its determination was supported by “more than a century of
12 precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660
13 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S.
14 at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due
15 Petitioner is that afforded under section 1225(b), the Court must reject his claim that
16 his detention violates the Fifth Amendment’s Due Process Clause and deny his
17 requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at
18 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The
19 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme
20 Court has ‘firmly and repeatedly endorsed the proposition that Congress may make
21 rules as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore*
22 *v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4
23 (“Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks
24 any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond
25 hearing.”).

26 In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40
27 (2020), the Supreme Court once again addressed the due process rights of inadmissible
28 arriving noncitizens seeking initial entry into the United States. The Supreme Court

1 stated that such individuals have no due process rights “other than those afforded by
2 statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in respondent’s position has only
3 those rights regarding admission that Congress has provided by statute.”). The
4 Supreme Court noted that its determination was supported by “more than a century of
5 precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660
6 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S.
7 at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due
8 Petitioner is that afforded under section 1225(b), the Court must reject his claim that
9 his detention violates the Fifth Amendment’s Due Process Clause and deny his
10 requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at
11 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The
12 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme
13 Court has ‘firmly and repeatedly endorsed the proposition that Congress may make
14 rules as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore*
15 *v. Kim*, 538 U.S. 510, 522 (2003)); *Zelaya-Gonzalez*, 2023 WL 3103811, at *4
16 (“Binding Ninth Circuit and Supreme Court precedents are clear that Petitioner lacks
17 any rights beyond those conferred by statute, and no statute entitles Petitioner to a bond
18 hearing.”).

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

1 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579 (W.D.N.Y.
2 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

3 Even if the Court infers a constitutional right against prolonged mandatory
4 detention, Petitioner’s claim still fails. “In general, as detention continues past a year,
5 courts become extremely wary of permitting continued custody absent a bond hearing.”
6 *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal.
7 April 20, 2023) (citation omitted); *see also Durand v. Allen*, No. 3:23-cv-00279-RBM-
8 BGS, 2024 WL 711607, at *5 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half
9 years); *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA (JLB), 2023 WL
10 139801, at *6 (S.D. Cal. Jan. 9, 2023) (three years); *Yagao v. Figueroa*,
11 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, at *2 (S.D. Cal. March 29, 2019) (two
12 years). Petitioner’s detention falls short of the length numerous courts have found to
13 raise due process concerns.

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

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

1 First, Petitioner has been detained for less than six months. Courts in this district
2 have found detention for much longer periods to be unreasonably prolonged. *See*
3 *Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 at *5 (S.D. Cal.
4 Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL 3028093, at *4 (19 months);
5 *Sanchez-Rivera*, 2023 WL 139801 at *6 (three years); *Kydyrali v. Wolf*, 499 F. Supp.
6 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019 WL 1429582, at *1 (42
7 months). The length of detention “is the most important factor.” *Sanchez-Rivera*, 2023
8 WL 139801, at *6 (citation omitted). Petitioner’s current detention does not fall within
9 the range these courts have found to be unreasonable. Moreover, the length of
10 Petitioner’s detention, by itself, does not favor granting habeas relief. *See Sadeqi v.*
11 *LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3 (S.D. Cal. Nov. 12,
12 2025) (“The Court agrees with Respondents that the length of Petitioner’s detention to
13 date—almost 12 months—does not by itself, without more, establish prolonged
14 detention in violation of due process.”). Not only does the length of Petitioner’s
15 detention fall comparatively short of the length courts in this district have found to
16 warrant habeas relief, but the other *Lopez* factors do not favor habeas relief either.
17 Second, the likely duration of future detention weighs against Petitioner. Petitioner’s
18 individual merits hearing is scheduled for May 28, 2026, at which point his path to
19 release or removal should be clearer. Finally, there is no indication of any delay in the
20 removal proceedings on the part of the government other than the regular process of
21 scheduling the necessary hearings. Petitioner has requested and received four
22 continuances of the proceedings to perfect his claims for relief resulting in about four
23 months of delay out of the total of six months of removal proceedings.

24 Balancing the above factors, the record does not support a finding that “detention
25 has become so unreasonable as to require an initial bond hearing,” *Sanchez-Rivera*,
26 2023 WL 139801, at *6, or an order requiring Petitioner’s release.

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

1 Cal. Jan. 13, 2026) (“Petitioner’s length of detention, without more, does not render his
2 detention unreasonable.”); *Duran Romero v. LaRose*, No. 25-cv-3567-AGS-VET, ECF
3 No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-AGS-KSC, ECF No.
4 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-BAS-DDL, ECF No.
5 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d at 221; *Gonzalez Aguilar*
6 *v. Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020 WL 3452967, at *6-8.

7 **V. CONCLUSION**

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

10
11 Dated: May 14, 2026

Respectfully submitted,

12 ADAM GORDON
13 United States Attorney

14 *s/ Michael D. Wallace*
15 MICHAEL D. WALLACE
16 Assistant United States Attorney
17 Attorneys for Respondents
18
19
20
21
22
23
24
25
26
27
28