

1 ADAM GORDON  
United States Attorney  
2 LAURA C. SAMBATARO  
Assistant United States Attorney  
3 Maryland Bar  
Office of the U.S. Attorney  
4 880 Front Street, Room 6293  
San Diego, CA 92101-8893  
5 Telephone: 619-546-9613  
Email: laura.sambataro@usdoj.gov

6 Attorneys for Respondents

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

10  
11 MEILAN GUZMAN-JARQUIN,

12 Petitioner,

13  
14 v.

15 PATRICK DIVVER, et al.,

16 Respondents.  
17  
18

Case No.: 26-CV-2917-BJC-JLB

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

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22 **I. INTRODUCTION**

23 Petitioner requests that the Court order her release from Immigration and  
24 Customs Enforcement (ICE) custody. As an applicant for admission to the United  
25 States, Petitioner's detention is mandated by 8 U.S.C. § 1225(b)(1)(B)(ii) until the  
26 conclusion of her removal proceedings. Accordingly, the Court should deny  
27 Petitioner's request for relief.

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1                   **II. FACTUAL AND PROCEDURAL BACKGROUND**

2           Respondents incorporate by reference the factual and procedural background  
3 briefed under the previous petition filed by Petitioner. *Guzman-Jarquin v. Divver, et al.*,  
4 No. 3:26-CV-514-BJC-JLB, at ECF Nos. 4, 5. Petitioner’s removal proceedings are  
5 ongoing—after Petitioner was apprehended re-entering the United States on December  
6 5, 2025, the Department of Homeland Security filed a motion to recalendar<sup>1</sup> Petitioner’s  
7 previous proceedings with the immigration court. Exh. 1 (IJ Order Granting Motion to  
8 Recalendar). The Immigration Judge granted this motion on May 1, 2026. *Id.* A master  
9 calendar hearing was held on May 12, 2026, and was reset to May 27, 2026 after  
10 Petitioner’s counsel indicated they were withdrawing from the case.

11           As a result, there is no administratively final order of removal at this time.  
12 Petitioner remains mandatorily detained under 8 U.S.C. § 1225(b)(1)(B).

13                   **III. STATUTORY BACKGROUND**

14           Section 235 of the Immigration and Nationality Act (INA), codified at 8 U.S.C.  
15 § 1225, applies to an “applicant for admission,” defined as an “alien present in the  
16 United States who has not been admitted” or “who arrives in the United States.” 8  
17 U.S.C. § 1225(a)(1). “[A]pplicants for admission fall into one of two categories, those  
18 covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*,  
19 583 U.S. 281, 287 (2018).

20           Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially  
21 determined to be inadmissible due to fraud, misrepresentation, or lack of valid  
22 document.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). These aliens are generally subject  
23 to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if “the alien  
24 indicates an intention to apply for asylum . . . or a fear of persecution,” immigration  
25 officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii).

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27  
28           <sup>1</sup> According to representations from DHS counsel, this motion was filed on February  
5, 2026.

1 “If the officer determines at the time of the interview that [the] alien has a credible fear  
2 of persecution . . . , the alien *shall be detained* for further consideration of the  
3 application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). If the alien  
4 does not indicate an intent to apply for asylum, does not express a fear of persecution,  
5 or is “found not to have such a fear,” they “shall be detained . . . until removed” from  
6 the United States. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

7 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*,  
8 583 U.S. at 287. It “applies to all applicants for admission not covered by §  
9 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall  
10 be detained for a removal proceeding “if the examining immigration officer determines  
11 that [the] alien seeking admission is not clearly and beyond a doubt entitled to be  
12 admitted.” 8 U.S.C. § 1225(b)(2)(A); *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025)  
13 (“for aliens arriving in and seeking admission into the United States who are placed  
14 directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. §  
15 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing  
16 *Jennings*, 583 U.S. at 299). However, DHS has the sole discretionary authority  
17 to temporarily release on parole “any alien applying for admission to the United States”  
18 on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.”  
19 *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

#### 20 IV. ARGUMENT

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

22 The Court must deny this habeas petition because Petitioner’s detention is  
23 statutorily mandated under 8 U.S.C. § 1225(b)(2)(A) and has not been  
24 unconstitutionally prolonged.

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

26 Petitioner’s claim fails because she is subject to mandatory detention under 8  
27 U.S.C. § 1225(b)(2). Under 8 U.S.C. § 1225(a)(1), an “applicant for admission” is  
28 defined as an “alien present in the United States who has not been admitted or who

1 arrives in the United States.” As explained above, applicants for admission “fall into  
2 one of two categories, those covered by § 1225(b)(1) and those covered by §  
3 1225(b)(2).” *Jennings*, 583 U.S. at 287.

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

18 As Petitioner’s removal proceedings are pending, and she has not been granted  
19 temporary parole, section 1225(b)(2) mandates her detention until the proceedings have  
20 concluded. *Jennings*, 583 U.S. at 297 (“Once those proceedings end, detention under  
21 § 1225(b) must end as well.”). Because Petitioner is lawfully detained under  
22 section 1225(b) and the statute does not entitle her to a bond hearing at this time, her  
23 petition must be denied. *See, e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151  
24 JLS-KSC, 2023 WL 3103811, at \*3 (S.D. Cal. April 25, 2023) (applying *Jennings* to  
25 find that the petitioner had no right to release or a bond hearing under 1225(b)(1)  
26 because “[b]inding Ninth Circuit and Supreme Court precedents are clear that Petitioner  
27 lacks any rights beyond those conferred by statute, and no statute entitles Petitioner to  
28 a bond hearing”).

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

2           In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.  
3 § 1225(b). The Supreme Court stated that, “[r]ead most naturally, [8 U.S.C.]  
4 §§ 1225(b)(1) and (b)(2) . . . mandate detention of applicants for admission until certain  
5 proceedings have concluded.” *Id.* at 297. In other words, neither 8 U.S.C. § 1225(b)(1)  
6 nor § 1225(b)(2) “impose[] any limit on the length of detention” and “neither  
7 § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond hearings.” *Id.* The  
8 Supreme Court added that the sole means of release for noncitizens detained pursuant  
9 to 8 U.S.C. §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary  
10 parole at the discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300  
11 (“That express exception to detention implies that there are no *other* circumstances  
12 under which aliens detained under [8 U.S.C.] § 1225(b) may be released.”) (emphasis  
13 in original). “In sum, [8 U.S.C.] §§ 1225(b)(1) and (b)(2) mandate detention of aliens  
14 throughout the completion of applicable proceedings[.]” *Id.* at 302.

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 rejected the petition, concluding that the noncitizen’s continued detention did not  
19 deprive him of any due process rights, stating: “[A]n alien on the threshold of initial  
20 entry stands on a different footing: ‘Whatever the procedure authorized by Congress  
21 is, it is due process as far as an alien denied entry is concerned.’” *Id.* at 212 (citation  
22 omitted).

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 inadmissible  
25 arriving noncitizens seeking initial entry into the United States. The Supreme Court  
26 stated that such individuals have no due process rights “other than those afforded by  
27 statute.” *Id.* at 107; *see also id.* at 140 (“[A]n alien in respondent’s position has only  
28 those rights regarding admission that Congress has provided by statute.”). The

1 Supreme Court noted that its determination was supported by “more than a century of  
2 precedent.” *Id.* at 138 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660  
3 (1892); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *Mezei*, 345 U.S.  
4 at 212; *Landon v. Plasencia*, 459 U.S. 21, 32 (1982)). Because the only process due  
5 Petitioner is that afforded under section 1225(b), the Court must reject his claim that  
6 his detention violates the Fifth Amendment’s Due Process Clause and deny his  
7 requested relief. *See Thuraissigiam*, 591 U.S. at 138–40; *Mendoza-Linares*, 51 F.4th at  
8 1167; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (“The  
9 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme  
10 Court has ‘firmly and repeatedly endorsed the proposition that Congress may make  
11 rules as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore*  
12 *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 *Thuraissigiam*’s impact on the precise Fifth Amendment  
18 Due Process Clause that Petitioner might have raised in this petition: Does an alien  
19 detained under 8 U.S.C. § 1225(b)(1) have a due process right to release or a bond  
20 hearing after being detained for a certain period of time? The answer is no. *See*  
21 *Mendoza-Linares v. Garland*, No. 21-cv-1169-BEN (AHG), 2024 WL 3316306, \*2  
22 (S.D. Cal. June 10, 2024) (“[T]he Court finds that Petitioner has no Fifth Amendment  
23 right to a bond hearing pending his removal proceedings.”); *Zelaya-Gonzalez*, 2023  
24 WL 3103811. \*3 (S.D. Cal. Apr. 25, 2023) (same); *Rodriguez Figueroa v. Garland*,  
25 535 F. Supp. 3d 122, 126–27 (W.D.N.Y. 2021); *Gonzales Garcia v. Rosen*, 513 F.  
26 Supp. 3d 329, 336 (W.D.N.Y. 2021); *St. Charles v. Barr*, 514 F. Supp. 3d 570, 579  
27 (W.D.N.Y. 2021); *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 667 (S.D. Tex. 2021).

28

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

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

26 First, Petitioner has been detained since December 5, 2025—just over five  
27 months. Courts in this district have found detention for much longer periods to be  
28 unreasonably prolonged. *See Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024

1 WL 711607 at \*5 (S.D. Cal. Feb. 21, 2024) (32 months); *Sibomana*, 2023 WL  
2 3028093, at \*4 (19 months); *Sanchez-Rivera*, 2023 WL 139801 at \*6 (three years);  
3 *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (27 months); *Yagao*, 2019  
4 WL 1429582, at \*1 (42 months). The length of detention “is the most important factor.”  
5 *Sanchez-Rivera*, 2023 WL 139801, at \*6 (citation omitted). And Petitioner’s current  
6 detention does not fall within the range those courts have found to be unreasonable.  
7 Moreover, the length of Petitioner’s detention, by itself, does not favor granting habeas  
8 relief. *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at \*3  
9 (S.D. Cal. Nov. 12, 2025) (“The Court agrees with Respondents that the length of  
10 Petitioner’s detention to date—almost 12 months—does not by itself, without more,  
11 establish prolonged detention in violation of due process.”). Not only does the length  
12 of Petitioner’s detention fall comparatively short of the length courts in this district  
13 have found to warrant habeas relief, but the other *Lopez* factors do not favor habeas  
14 relief either. Second, the likely duration of future detention weighs against Petitioner.  
15 Petitioner’s master calendar hearing is scheduled for May 27, 2026. The previous  
16 hearing was continued due to Petitioner’s counsel withdrawing from the case. Finally,  
17 there is no indication of any delay in the removal proceedings on the part of the  
18 government.

19 Balancing the above factors, the record does not support a finding that “detention  
20 has become so unreasonable as to require an initial bond hearing,” *Sanchez-Rivera*,  
21 2023 WL 139801, at \*6, or an order requiring Petitioner’s release.

22 Accordingly, Petitioner is subject to mandatory detention, which does not violate  
23 due process. *See Markov v. LaRose*, No. 25-CV-3811 JLS (SBC), 2026 WL 92069 (S.D.  
24 Cal. Jan. 13, 2026) (“Petitioner’s length of detention, without more, does not render his  
25 detention unreasonable.”); *Duran Romero v. LaRose*, No. 25-cv-3567-AGS-VET, ECF  
26 No. 7 (S.D. Cal. Jan. 14, 2026); *Shahin v. Noem*, No. 25-cv-2496-AGS-KSC, ECF No.  
27 12 (S.D. Cal. Dec. 23, 2025); *Cordova Cordova*, No. 25-cv-2426-BAS-DDL, ECF No.  
28 9 (S.D. Cal. Nov. 14, 2025); *Mendez Ramirez*, 612 F. Supp. 3d at 221; *Gonzalez Aguilar*

1 v. *Wolf*, 448 F. Supp. 3d at 1212; *de la Rosa Espinoza*, 2020 WL 3452967, at \*6-8.

2 **V. CONCLUSION**

3 For the reasons stated herein, Respondents respectfully request that the Court  
4 deny this petition on the merits.

5  
6 Dated: May 18, 2026

Respectfully submitted,

7 ADAM GORDON  
United States Attorney

8 *s/ Laura C. Sambataro*  
9 LAURA C. SAMBATARO  
10 Assistant United States Attorney  
11 Attorneys for Respondents  
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