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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTIAN CRESPO PEDRIQUEZ, Petitioner, v. WARDEN, MESA VERDE DETENTION FACILITY, Respondents.	CASE NO. 1:26-CV-05136-DJC-CKD **RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

Petitioner is lawfully detained under 8 U.S.C. § 1225(b)(2). Because § 1225(b)(2) mandates detention of arriving aliens such as Petitioner, he is not entitled to relief. This case is distinguished from the cases cited in the Court's minute order, ECF No. 4, in that Petitioner was encountered following a criminal arrest.

FACTUAL BACKGROUND

Petitioner is a native and citizen of Venezuela who applied for admission to the United States without documents authorizing entry on June 11, 2024. Ex. 1. The U.S. Department of Homeland Security (DHS), Customs and Border Protection (CBP) charged Petitioner with inadmissibility under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and released him on parole. Exs. 1, 2. On February 28, 2026, DHS, Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO)

encountered Petitioner at the Lee County Jail (Florida) following his arrest for Battery. Ex. 1. On or about March 10, 2026 ERO took custody of Petitioner for the pendency of removal proceedings. *Id.* On May 27, 2026, an immigration judge ordered Petitioner removed, which decision is currently pending before he Board of Immigration Appeals. Ex. 3. On July 6, 2026, Petitioner filed the present petition.

LEGAL ARGUMENT

I. Detention is mandatory under the statute.

Petitioner entered the United States illegally and is thus an "applicant for admission" who is subject to mandatory detention. *See* 8 U.S.C. § 1225(b); *Buenrostro-Mendez v. Bondi*,166 F.4th 494 (5th Cir. 2026); *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). *Contra Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. Apr. 28, 2026); *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026); *Lopez-Campos v. Raycraft*, No. 25-1965, 2026 WL 1283891 (6th Cir. May 11, 2026); *Santillan Quiroz v. Mullin*, 2026 WL 1876709 (10th Cir. June 30, 2026); *but see Castañon-Nava v. DHS*, 161 F.4th 1048 (7th Cir. 2025). Further, with exceptions not relevant here, "an alien who is an applicant for admission . . . shall be detained for a proceeding under section 1229a of this title." § 1225(b)(2)(A). *See generally* § 1229a (removal proceedings). The plain language of § 1225 is rightly applied to aliens in this category. *See Alonzo v. Noem*, 809 F. Supp. 3d 1069, 1072–74 (E.D. Cal. 2025); *Altamirano Ramos v. Lyons*, 809 F. Supp. 3d 1015, 1021–25 (C.D. Cal. 2025). *But see Alonzo*, 809 F. Supp. 3d at 1072–73 (conceding that "many courts," both in this District and elsewhere, have held to the contrary).

II. Due Process is the process available under the statute.

The due process claims of applicants for admission are coextensive with the applicable detention statute. In *DHS v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020), the Supreme Court reiterated the "important rule" that "as to foreigners who have never been naturalized, nor acquired any domicil or residence within the United States, nor even been admitted into the country pursuant to law, the

decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law." *Id.* at 138 (citation modified). The Court held that "an alien who tries to enter the country illegally is treated as an applicant for admission, § 1225(a)(1)," and that such an alien "has only those rights regarding admission that Congress has provided by statute." *Id.* at 140 (citation modified). Crucially, "the Due Process Clause provides nothing more." [1] *Id.*; *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)).

This is so regardless of whether Petitioner was previously released. A prior release does not have the effect of having converted an alien's presence in the United States into an admission. § 1182(d)(5) ("[S]uch parole of such alien shall not be regarded as an admission . . . ."). An "alien who arrives in the United States, or is present in this country but has not been admitted, is treated as an applicant for admission." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (citation modified). Congress by statute has provided Petitioner with the right to contest his removal. But Congress by §1225(b) has at the same time mandated that, while Petitioner exercises those rights, he must be detained. Under *Thuraissigiam* and *Shaughnessy*, the Due Process Clause provides nothing more. Respondents acknowledge the cases to the contrary in this District. But *Thuraissigiam* explained that Congress "addressed" the problems of flight risk and the high costs of detention "by providing more expedited procedures for certain applicants for admission." 591 U.S. at 108 (citation modified). Moreover, despite its singular use of the phrase "regarding admission," *Thuraissigiam* also makes broad reference to the "due process rights" of aliens at the threshold of entry, without drawing forced

[1] As the Eighth Circuit has recently observed, there is no warrant in this context "for a multi-factor 'reasonableness' test" of the kind exemplified by *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), because *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), "have already done whatever balancing is necessary." *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024); *accord Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022) (acknowledging that "the Supreme Court when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*," but "assum[ing] without deciding that *Mathews* applies here"); *id.* at 1214 (Bumatay, J., concurring) (similarly observing that in "resolving similar immigration-detention challenges, the Supreme Court has not relied on the *Mathews* framework").

distinctions between admission and other key aspects of the immigration process—such as detention—with which admission is typically intertwined. *Id.* at 139; *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of [the] deportation procedure.").

III. No pre-deprivation hearing where re-detention is preceded by an encounter with law enforcement.

In this case, Petitioner was re-detained following an encounter with law enforcement and arrest. Neither the statute nor the constitution requires an additional hearing before Petitioner may be re-detained once such a change in circumstances has occurred. For this additional and alternative reason, the Court should deny the habeas petition.

No detention authority under the INA requires or provides an alien with a pre-deprivation hearing. Even if the Court were to find that the proper detention authority is 8 U.S.C. § 1226(a)—though it should not—neither that statute nor its implementing regulations provide for a pre-deprivation hearing. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1003.19; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022) (describing the process under section 1226(a)). Under section 1226(a) and its implementing regulations, an alien is entitled to a custody redetermination hearing—at the alien's request—only after an initial decision has been made to detain the alien. *See* 8 C.F.R. § 1003.19(a), (b) (describing how a detainee can request a custody redetermination hearing). At this hearing, the detainee bears the burden of demonstrating that he is not a flight risk or a danger. The Ninth Circuit has found the procedures under section 1226(a) facially satisfy due process. And the Court further found that due process does not require the government to bear the burden of demonstrating a Petitioner is a danger or a flight risk at a custody redetermination hearing. *See Rodriguez Diaz*, 53 F.4th at 1210–11 (holding § 1226(a), which places the burden of proof on the detainee at a bond hearing, to be constitutionally adequate).

Thus, even under section 1226(a), Petitioner would not have been entitled to the pre-deprivation hearing. If the Court is inclined to grant any relief, it should be a custody redetermination hearing under

the procedures set forth in section 1226(a) and its implementing regulations.

CONCLUSION

For the reasons set forth above, Respondents respectfully request that the Court deny the Petition for a Writ of Habeas Corpus. Respondents do not request a hearing.

Dated: July 13, 2026

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