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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAIME VASQUEZ-GOMEZ,

Petitioner,

v.

WARDEN, MESA VERDE DETENTION  
FACILITY,

Respondents.

CASE NO. 1:26-CV-05219-DAD-CSK

**RESPONDENTS' RESPONSE TO MOTION  
FOR TEMPORARY RESTRAINING ORDER  
AND PETITION FOR WRIT OF HABEAS  
CORPUS**

**INTRODUCTION**

Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(ii) because he was in expedited removal proceedings and is ongoing removal proceedings. Because Petitioner is subject to mandatory detention based on his procedural posture, he is not entitled to relief.

**FACTUAL BACKGROUND**

Petitioner is native and citizen of Colombia who entered the United States without inspection on or about June 10, 2024. Ex. 1. The Department of Homeland Security (DHS), Customs and Border Protection (CBP), Border Patrol apprehended Petitioner near the border around the time of his entry. *Id.* Petitioner was placed in expedited removal proceedings, which resulted in his being placed in full removal proceedings. *Id.* On August 1, 2024, Petitioner was released on parole under 8 U.S.C. § 1182(d)(5)(A) and later enrolled in Alternatives to Detention (ATD). Petitioner's removal

1 proceedings did not move forward as the Notice to Appear (NTA) had not been filed with the  
2 Immigration Court. *Id.* Petitioner was arrested for criminal offenses on March 23, 2025, and March 27,  
3 2026. *Id.* On March 28, 2026, DHS, Immigration and Customs Enforcement (ICE), Enforcement and  
4 Removal Operations (ERO) encountered Petitioner at the Passaic County Jail (New Jersey). *Id.* ERO  
5 took custody of Petitioner on a detainer and issued a new NTA. Ex. 2. On July 7, 2026, Petitioner filed  
6 the present petition.  
7

## 8 LEGAL ARGUMENT

### 9 I. Petitioner is mandatorily detained as an applicant for admission in removal proceedings.

10 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the  
11 Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.”  
12 *Kucana v. Holder*, 558 U.S. 233, 249 (2010) (citing *Reno v. American–Arab Anti-Discrimination*  
13 *Comm.*, 525 U.S. 471 (1999)); *see also DHS v. Thuraissigiam*, 591 U.S. 103, 106 (2020). Section 1225  
14 applies to “applicants for admission” to the United States, who are defined as “[a]n alien present in the  
15 United States who has not been admitted or who arrives in the United States,” regardless of whether they  
16 presented at a port of entry. 8 U.S.C. § 1225(b)(1). Applicants for admission “fall into one of two  
17 categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” *Jennings v. Rodriguez*,  
18 583 U.S. 281, 287 (2018), both of which are subject to mandatory detention. *Matter of Yajure Hurtado*,  
19 29 I&N Dec. 216 (BIA 2025). An applicant for admission is subject to expedited removal under  
20 § 1225(b)(1) if, as relevant here, he was apprehended within 100 air miles of any U.S. international land  
21 border and had entered within the last fourteen days. *See* § 1225(b)(1)(A); Designating Aliens for  
22 Expedited Removal, 69 Fed. Reg. 48877, 48879 (Aug. 11, 2004).  
23

24 Expedited removal proceedings under § 1225(b)(1) include additional procedures if an alien  
25 indicates an intention to apply for asylum or expresses a fear of persecution, torture, or return to his  
26 country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). While a review of the alien’s  
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1 credible fear is underway, the alien is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).  
2 If found to not have a credible fear, the alien is ordered “removed from the United States without further  
3 hearing or review.” 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C); §§ 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R.  
4 §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If found to have a credible fear, the alien is generally placed in full  
5 removal proceedings under 8 U.S.C. § 1229a but remains subject to mandatory detention. *See* 8 C.F.R.  
6 § 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(ii); *Matter of M-S-*, 27 I&N Dec. 509, 516 (A.G. 2019).

8 An exception to this mandatory detention for applicants for admission is release on parole. 8  
9 U.S.C. § 1182(d)(5)(A). Section 1182(d)(5)(A) parole, however, is not an admission to the United  
10 States, is at the lone discretion of the government, and may be terminated when it is the government’s  
11 opinion that the purposes of parole have been fulfilled. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5.  
12 When parole terminates, an alien is returned to the same custody and status he had before parole. 8  
13 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e)(2)(i). Parole may be terminated by serving an NTA on the  
14 alien, which constitutes written notice of termination. 8 C.F.R. § 212.5(e)(2)(i).

16 Here, Petitioner is mandatorily detained under § 1225(b)(1)(B)(ii) because he was subject to  
17 expedited removal under § 1225(b)(1) and his removal proceedings are ongoing. His release was  
18 subject to termination and reversion to custody under § 1225(b)(1). Petitioner was arrested for criminal  
19 offenses, which resulted in the termination of his parole in the government’s exercise of discretion.  
20 Petitioner received written notice of termination of his parole when ERO served him the new NTA.

22 Thus, Petitioner’s detention is lawful and mandated by the law.

## 23 **II. Due Process is the process available under the statute.**

24 The due process claims of applicants for admission are coextensive with the applicable detention  
25 statute. In *DHS v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020), the Supreme Court reiterated the  
26 “important rule” that “as to foreigners who have never been naturalized, nor acquired any domicile or  
27 residence within the United States, nor even been admitted into the country pursuant to law, the  
28

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

8 This is so regardless of whether Petitioner was previously released. A prior release does not  
9 have the effect of having converted an alien’s presence in the United States into an admission.  
10 § 1182(d)(5) (“[S]uch parole of such alien shall not be regarded as an admission . . .”). An “alien who  
11 arrives in the United States, or is present in this country but has not been admitted, is treated as an  
12 applicant for admission.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (citation modified).  
13 Congress by statute has provided Petitioner with the right to contest his removal. But Congress by  
14 § 1225(b) has at the same time mandated that, while Petitioner exercises those rights, he must be  
15 detained. Under *Thuraissigiam* and *Shaughnessy*, the Due Process Clause provides nothing more.  
16 Respondents acknowledge the cases to the contrary in this District. But *Thuraissigiam* explained that  
17 Congress “addressed” the problems of flight risk and the high costs of detention “by providing more  
18 expedited procedures for certain applicants for admission.” 591 U.S. at 108 (citation modified).  
19 Moreover, despite its singular use of the phrase “regarding admission,” *Thuraissigiam* also makes broad  
20 reference to the “due process rights” of aliens at the threshold of entry, without drawing forced  
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24 <sup>1</sup> As the Eighth Circuit has recently observed, there is no warrant in this context “for a multi-factor  
25 ‘reasonableness’ test” of the kind exemplified by *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), because  
26 *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), “have already done whatever  
27 balancing is necessary.” *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024); accord *Rodriguez Diaz v.*  
28 *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”).

1 distinctions between admission and other key aspects of the immigration process—such as detention—  
2 with which admission is typically intertwined. *Id.* at 139; *see also Carlson v. Landon*, 342 U.S. 524,  
3 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”).

4  
5 **CONCLUSION**

6 For the reasons set forth above, Respondents respectfully request that the Court deny the Motion  
7 for Temporary Restraining Order and Petition for a Writ of Habeas Corpus. Respondents do not request  
8 a hearing.

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11 Dated: July 10, 2026

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13 By: /s/ Sean Davis  
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