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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MIGUEL ANGEL REYES PEREZ,

No. 1:26-CV-05254-DAD-CKD

Petitioner,

**OPPOSITION TO MOTION FOR TRO AND
PETITION FOR WRIT OF HABEAS CORPUS**

v.

TONYA ANDREWS,

Respondent.

This case involves mandatory pre-order detention. Petitioner has been required to depart from the U.S. three times. Ex. 1. He re-entered the U.S. again, unlawfully, on an unknown date and time. In 2024, Petitioner was detained by immigration officials in Tampa, Florida, but released for lack of bed space. Ex. 1. Petitioner was recently re-detained by ICE after an encounter with law enforcement, and after being released from jail for the violation of a restraining order. Ex. 1. It was Petitioner's encounter with law enforcement that led to Petitioner's re-detention. Exhibit 1 (I-213), 2 (rap sheet). Detention is mandatory under 8 U.S.C. § 1225(b). Neither the statute nor the Constitution afford petitioner a path to release or a bond hearing.

I. DETENTION IS MANDATORY UNDER THE STATUTE

Petitioner is an "applicant for admission" who is subject to mandatory detention. Section 1225(b)(2) provides for mandatory detention. The plain language of § 1225 is rightly applied to aliens

in this category. *See Alonzo v. Noem*, 2025 WL 3208284, at *2–4 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *id.* at *3 (citing two decisions); *Altamirano Ramos v. Lyons*, 2025 WL 3199872, at *4–8 (C.D. Cal. Nov. 12, 2025); *id.* at *8 (citing three more decisions); *but see Alonzo*, 2025 WL 3208284, at *2–3 (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 FOR ARRIVING ALIENS

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 domicile 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 (emphasis added; quoting *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892)). 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. Crucially, “the Due Process Clause provides nothing more.”¹ *Id.* (emphasis added); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)).

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) (quoting 8 U.S.C. § 1225(a)(1)). 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.

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”).

1 Respondents acknowledge the cases to the contrary in this District, including those cases cited in
2 the Court's Minute Order. But *Thuraissigiam* explained that Congress "addressed" the problems of
3 flight risk and the high costs of detention "by providing more expedited procedures for certain
4 'applicants for admission.'" 591 U.S. at 108. Moreover, despite its singular use of the phrase
5 "regarding admission," *Thuraissigiam* also makes broad reference to the "due process rights" of aliens at
6 the threshold of entry, without drawing forced distinctions between admission and other key aspects of
7 the immigration process — such as detention — with which admission is typically intertwined. *Id.* at
8 139 (emphasis added); see also *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily
9 a part of [the] deportation procedure.").

10 **III. THE STATUTE IS CONSTITUTIONAL AS APPLIED TO PETITIONER**

11 Petitioner does not have a liberty interest in remaining out of custody during the pendency of
12 removal proceedings. Petitioner (1) had an encounter with law enforcement; and (2) had a period of
13 release terminated because of that law enforcement encounter.

14 The agency's previous determination to grant release—particularly if that release was
15 conditional and petitioner violated those conditions—does not alter petitioner's status nor endow
16 petitioner with constitutional rights not provided for by statute. It is the statute that is the sole source of
17 constitutional rights in the case of arriving aliens, and the statute here provides for mandatory detention.
18 *Shaughnessy*, 345 U.S. at 215. This application is constitutional as applied to petitioner's case.

19 This case does not appear to be materially distinguishable from the cases cited in the Court's
20 Minute Order, except that this Petitioner has been required to leave the U.S. three times—each time he
21 was encountered entering unlawfully—and yet, he unlawfully entered again. Given Petitioner's
22 documented failures to appear in criminal proceedings and violation of a restraining order, he may well
23 constitute a flight risk or danger to others in the community, which an immigration judge should
24 determine in the first instance on full information if the Court is considering release.

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1 **IV. CONCLUSION**

2 In sum, as an unadmitted alien, Petitioner is due the process that Congress has created. That
3 process includes mandatory detention while Petitioner exercises the statutory right to challenge removal.
4 The petition should be dismissed.

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6 Dated: July 9, 2026

Respectfully submitted,

7 ERIC GRANT
8 United States Attorney

9 By: /s/ Shelley D. Weger
10 SHELLEY D. WEGER
11 Assistant United States Attorney
12 Attorneys for Respondents
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers. She also certifies that on July 9, 2026, a copy of the OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS was served by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee: **Miguel Angel Reyes Perez**


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/s/ S. Weger
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