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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRES ALEJANDRO RAMOS MORAN,

No. 1:26-CV-5264-DJC-AC

Petitioner,

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

v.

WARDEN, *et al.*,

Respondents.

This case involves mandatory pre-order detention.¹ Petitioner entered the U.S. in 2024. Following an encounter with law enforcement, related to driving under the influence and reckless driving, ICE re-detained Petitioner. 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

¹ Counsel acknowledges that the Court ordered the appointment of counsel for petitioner with the opportunity to file an amended petition, however, Respondents provide this response in the event it assists the Court in deciding the petition without an amended filing.

1 in this category. *See Alonzo v. Noem*, 2025 WL 3208284, at *2–4 (E.D. Cal. Nov. 17, 2025) (Shubb, J.);
 2 *id.* at *3 (citing two decisions); *Altamirano Ramos v. Lyons*, 2025 WL 3199872, at *4–8 (C.D. Cal. Nov.
 3 12, 2025); *id.* at *8 (citing three more decisions); *but see Alonzo*, 2025 WL 3208284, at *2–3 (conceding
 4 that “many courts,” both in this District and elsewhere, have held to the contrary).

5 II. DUE PROCESS IS THE PROCESS AVAILABLE UNDER THE STATUTE FOR ARRIVING ALIENS

6 The due process claims of applicants for admission are coextensive with the applicable detention
 7 statute. In *DHS v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020), the Supreme Court reiterated the
 8 “important rule” that “as to ‘foreigners who have never been naturalized, nor acquired any domicile or
 9 residence within the United States, nor even been admitted into the country pursuant to law,’ ‘the
 10 decisions of executive or administrative officers, acting within powers expressly conferred by Congress,
 11 are due process of law.’” *Id.* at 138 (emphasis added; quoting *Nishimura Ekiu v. United States*, 142 U.S.
 12 651, 660 (1892)). The Court held that “an alien who tries to enter the country illegally is treated as an
 13 ‘applicant for admission,’ § 1225(a)(1),” and that such an alien “has only those rights regarding
 14 admission that Congress has provided by statute.” *Id.* at 140. Crucially, “the Due Process Clause
 15 provides nothing more.”² *Id.* (emphasis added); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S.
 16 206, 215 (1953)).

17 An “alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been
 18 admitted,’ is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)
 19 (quoting 8 U.S.C. § 1225(a)(1)). Congress by statute has provided Petitioner with the right to contest his
 20 removal. But Congress by §1225(b) has at the same time mandated that, while Petitioner exercises those
 21 rights, he must be detained. Under *Thuraissigiam* and *Shaughnessy*, the Due Process Clause provides
 22 nothing more.

23
 24 ² As the Eighth Circuit has recently observed, there is no warrant in this context “for a multi-
 25 factor ‘reasonableness’ test” of the kind exemplified by *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976),
 26 because *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), “have
 27 already done whatever balancing is necessary.” *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024);
 28 *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”).

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

III. THE STATUTE IS CONSTITUTIONAL AS APPLIED TO PETITIONER

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

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

IV. CONCLUSION

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

Dated: July 9, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: /s/ Shelley D. Weger
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Assistant United States Attorney

Attorneys for Respondents

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 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: **Andres Alejandro Ramos Moran**


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/s/ Shelley D. Weger
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