UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-03374-PAM-SGE

Ovidio Ramirez Dubon,

Petitioner,

v.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

TODD BLANCHE, *et al.*,

Respondents.

Petitioner filed this petition for a writ of habeas corpus seeking immediate release from custody. Federal Respondents submit this response to Petitioner's habeas petition. The Court should deny Petitioner's request for habeas relief.

BACKGROUND

Any facts that are not specifically admitted herein are denied. Petitioner is a citizen and native of Honduras that was apprehended by U.S. Border Patrol near Lukeville, AZ[1] on July 23, 2016. Declaration of Deportation Officer Christopher A. Campbell (Decl.), Ex. E. The Notice to Appear (NTA) issued and served in 2016, did not have a fixed address for the Petitioner, and was missing the date, time and location of his removal hearing. Decl., Ex E. Prior to 2018 the missing information was common practice, which has now been

[1] Lukeville, Arizona is located on the Mexico-United States border and has a designated port of entry. *See* https://www.cbp.gov/about/contact/ports/lukeville-arizona-2602 (last visited July 28, 2026).

properly corrected pursuant to the Supreme Court's decisions in *Pereira v. Sessions*[2] and *Niz-Chavez v. Garland.*[3] The result of not having the Petitioner's contact information resulted in the Department of Homeland Security (DHS) not being able to reissue a proper Notice to Appear, until the Petitioner resurfaced.

The whereabouts of Petitioner were made known to ICE/ERO on March 3, 2026 when he was arrested while appearing for a court hearing. *Ovidio D. v. Bondi*, No. 26-cv-01834 (KMM/SGE) ECF No. 7 at 1 (D. Minn. March 20, 2026). This Court ordered the immediate release of Petitioner finding, *inter alia*, that Petitioner was not subject to mandatory detention under § 1225(b)(2)(A)[4]. *Id.* at 2-3. The Petitioner was timely released with no new conditions pursuant to this Court's order. *Id.* at 4. Since Petitioner had originally agreed to voluntary departure a new NTA was not issued. *Id.*, ECF No. 5-1. However, at the Petitioner withdrew his consent to voluntary departure at the time of filing his first habeas petition. Pet. ¶ 14.

ICE/ERO officers discovered the Petitioner a second time on July 14, 2026, after conducting background checks on recent arrests in Dakota County and found that Petitioner

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2 The Court held a NTA missing time or place of the "removal proceedings is not a notice to appear under section 1229(a) and therefore does not trigger the stop time rule" for cancellation of removal purposes. *Pereira v.Sessions*, 585 U.S. 198, 202 (2018).

3 The Court held § 1229(a) requires a single document containing all the information about a non-citizen's removal hearing to trigger the stop time rule. *Niz-Chavez v. Garland*, 593 U.S. 155, 159-60 (2021).

4 Subsequently, *Avila v. Bondi* was decided by the Eighth Circuit holding that non-citizens like Petitioner are arriving aliens seeking admission and subject to mandatory detention under § 1225(b)(2). *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).

was arrested for domestic violence[5]. Decl., ¶ 5. Since the Petitioner's fingerprints were already on file ICE/ERO was able to make a probable cause determination that Petitioner was present in the United States without authorization. Decl., ¶ 5. With this information, on July 14, 2026, ICE/ERO Supervisory Detention and Deportation Officer (SDDO) issued a Warrant for Arrest of Alien, Form I-200, for Petitioner. Decl., Ex. B. On July 16, 2026, prior to Petitioner's arrest the SDDO issued a new NTA. Decl. ¶ 7. On July 16, 2026, the Petitioner was served the Form I-200 at the Dakota County Jail and transported to the Bishop Henry Whipple Federal Building for administrative processing. Decl. ¶ 8 and Ex. B. During the administrative processing the Petitioner was served with the previously issued NTA. Decl. ¶ 9 and Ex. A. On July 16, 2026, Petitioner was transferred to the Freeborn County Jail in Minnesota where he remains. Decl. ¶ 10.

ARGUMENT

Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This conclusion is appropriate under Supreme Court and Eighth Circuit precedent. The Eighth Circuit Court of Appeals held that aliens, like the Petitioner, who entered the United States illegally and who are not "clearly and beyond a doubt entitled to be admitted," "shall be detained" under 8 U.S.C. § 1225(b)(2)(A), until the conclusion of their removal proceedings. *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). The *Avila* decision is binding precedent and requires that the Court deny this habeas petition.

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[5] Petitioner has a conviction for driving while impaired – Oct. 9, 2025; also pending charges for interference, disrupting a 911 call – Feb. 28, 2026; and Driving while impaired – Nov. 22, 2022.

I. Form I-200 is necessary when non-citizen in not likely to escape

Petitioner argues that non-citizens being detained under § 1225(b) may only be arrested without a warrant pursuant to § 1357(a)(2). Pet. ¶ 31. This argument fails by just a simple reading of the referenced statute, which states:

> Any officer or employee of the Service . . . shall have the power without warrant – . . . to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape *before a warrant can be obtained for his arrest* . . . 8 U.S.C. § 1357(a)(2) (*emphasis added*).

Essentially, § 1357(a)(2) creates the exigent circumstance exception to arrest without a warrant in criminal proceedings when police are in hot pursuit of a fleeing felon. *See United States v. Santana*, 427 U.S. 38 (1976). Otherwise, a warrant is preferred in all situations not just for non-citizens that are subject to detention under § 1226(a), as Petitioner's would lead this Court to believe[6]. The Form I-200 is consistent with this reading, as the first statement is directed,

> To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." Decl., Ex. B.

That language identifies which officers are authorized to conduct arrest and does not indicate that the arrest will occur pursuant § 1226 or represent to Petitioner that he is being arrested under that statute. *Picazo Jimenez. v. Blanche*, 26-cv-2740 (ECT-JFD) at 3 (D. Minn. June 29, 2026); *See* also *Gudino v. Almodovar*, No. 1:26-cv-00402-MKV, 2026 WL

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[6] There are plausible situations when a non-citizen that entered the United States on a B-2 Travel Visa, and overstayed their visa, can be arrested without a warrant if the Service believes can establish likelihood of escape.

251887, at *3 (S.D.N.Y. Jan. 30, 2026); *Liang v. Almodovar*, No. 1:25-cv-09322-MKV, 2025 WL 3641512, at *2 & n.6 (S.D.N.Y. Dec. 15, 2025). The direction does not limit the applicability of the warrant to a certain class of detainee. Rather, the direction limits the class of people who can serve it; namely, those who are authorized to serve warrants under 8 U.S.C. §§1226 and 1357, and 8 C.F.R. § 287.

II. Petitioner was lawfully arrested

The legal basis of the arrest derives from DHS's statutory detention authority pursuant to 8 U.S.C. § 1226(a), which states "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is be removed from the United States. 8 U.S.C. § 1226(a). When DHS established probable cause to believe an individual is removable through existing evidence – such as biometric confirmation of identity, immigration records, voluntary statements – the Fourth Amendment and the INA do not require service of the NTA to precede the service of an I-200 arrest warrant. *Ramirez v. Genalo*, 2026 U.S. Dist. LEXIS 140337 (E.D.N.Y. June 24, 2026). The legality of the arrest turns on the existence of statutory authority and probable cause, not on the sequence in which the I-200 and NTA are served. *Id.*

The regulation does not expressly state that issuance of Notice to Appear is a jurisdictional prerequisite to every administrative arrest. Rather, it describes one circumstance under which an arrest warrant may be executed—"*In General*. At the time of issuance of the notice to appear, or at any time thereafter." 8 C.F.R. § 236.1. Nothing in the regulation expressly withdraws the broader arrest authority Congress granted in §§ 1226(a) and 1357(a). Had the agency intended to eliminate the statutory authority to arrest

removable noncitizens before preparing a charging document, it would have done so in unmistakably clear language.

Accordingly, the better reading is that the issuance of a Notice to Appear satisfies one avenue for establishing probable cause reflected on Form I-200, but it is not the exclusive avenue. Where DHS independently establishes probable cause through biometric confirmation, immigration records, and other evidence demonstrating removability, the administrative warrant is authorized by statute even if the Notice to Appear is prepared contemporaneously with, or after, issuance of the Form I-200.

Furthermore, 8 C.F.R. § 236.1 is not phrased as limitation. It simply says "[*i*]*n general* [a]t the time of issuance of the [NTA], or at any time thereafter . . . the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest." 8 C.F.R. § 236.1(b)(1). This Court has generally treated 8 C.F.R. §236.1(b) as requiring the NTA before execution of an I-200 arrest. However, those decisions applied a blanket standard that addressed arrests based on probable cause in the first two categories. Whereas this arrest falls under the independent probable-cause certifications reflected in the later sections of the I-200 and grounded directly in § 1226(a) arresting authority.

Applying the fundamental canon of statutory construction "that unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." *Perrin v. United States*, 444 U.S. 37 at 42 (1979). The ordinary contemporary, common meaning of the word "issuance" is defined, in the context of 8 C.F.R. § 236.1(b)(1), as "the official act of making something available or of giving something to

people to be used: the act of officially issuing something.[7] Thus the issuance of the NTA is the preparation and generating the document making it available to be used is the regulation requirement, not service of the NTA. The regulation allows DHS to arrest with Form I-200 at the issuance of the NTA, it should not be narrowly construed to mean I-200 can only be used if the NTA is served first. When Congress intends to invalidate government action for noncompliance with a procedural requirement it does so expressly. *See generally United States v. James Daniel Good Real Property*, 510 U.S. 43 (1993) (declining to give force to agency regulations that purport to require invalidation of agency action for technical procedural violations). Here, neither the statute or regulation provide that consequence.

The issuance of the Form I-200 can be prior to the issuance of the NTA so long as probable cause was established. *Ramirez v. Genalo*, 26-cv-3229 (HG) (E.D.N.Y. June 24, 2026). Looking again at Form I-200 reflects distinct statutory bases to establish probable cause for arrest. The form does not contain a single probable-cause determination tied exclusively to the commencement of removal proceedings. Instead, it identifies multiple independent grounds upon which probable cause may exist. The first categories concern situations in which a charging document has already been issued or removal proceedings have already commenced. Those categories naturally correspond to 8 C.F.R. § 236.1(b), which provides that an alien may be arrested under an administrative warrant "[a]t the time

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[7] "Issuance." Merriam-Webster.com Simple Definition, Merriam-Webster, https://www.merriam-webster.com/simple/issuance. (Last visited July 21, 2026).

of *issuance* of the notice to appear, or at any time thereafter." 8 C.F.R. § 236.1(b) (*emphasis added*).

The remaining probable-cause categories, however, are materially different. They require the officer to certify that the person's identity has been confirmed through fingerprints or other reliable biometric evidence and that agency records establish the individual is removable or otherwise subject to detention under the immigration laws. Those findings do not depend upon the prior issuance of a Notice to Appear. Instead, they establish the factual basis necessary for the exercise of Congress's independent detention authority under 8 U.S.C. § 1226(a). Here the issuance of Form I-200 was based on probable cause established through biometric confirmation and other reliable evidence. Decl., Ex. B.

Here, the Court need not make a ruling on whether a non-citizen can be arrested prior to issuance of NTA, because the actual arrest was completed after issuance of the NTA. Decl., ¶ 7-8, Exs. A and B. Service of the NTA is not the threshold requirement contemplated by the regulation, issuance is, thus service may be completed at the time the non-citizen is processed in connection with the I-200. *Ramirez*, at 9. This is exactly what took place, Petitioner was served the NTA during administrative processing. Decl. ¶ 9.

III. No Violation of Due Process Rights

Petitioner avoids discussing or even mentioning the binding due process precedents on mandatory detention discussed in *Demore* and *Banyee*, instead wanting the Court to apply the three-factor *Mathews* test to evaluate due process. Pet. ¶ 48. That is wrong.

Substantive Due Process

First, Petitioner's arguments are statutory and not procedural. In truth, Petitioner is not challenging the *procedures* available under the statute, but Congress's *substantive* determination that aliens covered by § 1225(b) are not entitled to a bond hearing. Petitioner's true claim sounds in *substantive* due process, i.*e.*, that the government cannot constitutionally detain aliens in Petitioner's situation *notwithstanding* the fact that they are subject to mandatory detention by statute. But Petitioner has not attempted to satisfy the standard for a substantive due process claim. Petitioner does not purport to identify any fundamental right, so his substantive due process claim must fail so long as mandatory detention under § 1225(b) is "rationally related to legitimate government interests." *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997). The Supreme Court has long "recognized [that] detention during deportation proceedings [i]s a constitutionally valid aspect of the deportation process," because "deportation proceedings 'would be vain if those accused could not be held in custody pending the inquiry into their true character.'" *Demore v. Kim*, 538 U.S. 510 (2003).

Procedural Due Process

Recognizing the claim is foreclosed, Petitioner raises procedural due process. The Constitution prohibits the federal government and States from "depriv[ing]" a "person" of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. The Supreme Court has recognized two types of due-process claims. *See Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024). A procedural-due-process claim takes as given the substantive determinations that would justify a deprivation of life, liberty, or property, but

challenges the "adequacy of the[] procedures" for making those determinations. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

For example, the statute in *Mathews* made the availability of disability benefits turn on whether a person is "completely disabled" within the meaning of the statute. *Id.* At 323, 336. The procedural due process claim did not challenge the statute's substantive criteria for who may receive benefits, but the adequacy of the procedures available to test whether a person fits within the criteria. *Id.* At 325-26. By contrast, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation "at all, no matter what process is provided." *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Petitioner has not challenged the adequacy of the procedures for determining whether Petitioner is an "applicant for admission," a matter determined in immigration proceedings, and that subjects Petitioner to mandatory detention under § 1225(b). Instead, Petitioner argues that the determination that Petitioner is an applicant for admission and "not clearly and beyond a doubt entitled to be admitted," 8 U.S.C. § 1225(b), is a constitutionally insufficient basis on which to justify the deprivation of liberty. Petitioner's due process argument is substantive, not procedural, in nature.

Petitioner has requested that this Court find that due process requires additional procedures in the form of a bond hearing. But a bond hearing is merely the vehicle for making substantive determination about flight risk or dangerousness. Those factors are irrelevant under the statute. Section 1225(b) requires mandatory detention and does not require such determinations.

Congress decided as a substantive policy matter to impose mandatory detention on all applicants for admission, such as Petitioner. Whether Petitioner is a flight risk or danger is irrelevant under that policy choice. Due process does not require procedures to adjudicate immaterial facts. What Petitioner is asking this Court to do is override Congress's substantive judgment that all applicants for admission must be detained regardless of whether they are dangerous or flight risks. Procedural due process can do no such thing.

Accordingly, Petitioner has no procedural due process right to a bond hearing on flight risk or danger to the community. Individualized findings about flight risk and danger are irrelevant to § 1225(b), which subjects Petitioner to mandatory detention based on Petitioner's uncontested status as an "applicant for admission" who has not shown he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(a)(1).

The Supreme Court's decision in *Connecticut Dep't of Pub. Safety*, is illustrative on this point. The statute in that case required sex offenders to register with the State so their information could be published on a sex-offender registry. 538 U.S. at 4-5. John Doe, who had previously been convicted of a sex offense, claimed that the statute violated his procedural-due-process rights by requiring him to register without a "hearing to determine whether" he was "currently dangerous." *Id.* At 4 (citation omitted)

But the Court concluded that no additional process is needed to resolve an uncontested issue of fact. As the Court held, "Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme." *Id.* At 9. Here, whether Petitioner is a flight risk or a danger is irrelevant to the statutory scheme; thus, a bond hearing to assess those issues

would be "a bootless exercise." *Id.* At 7. In the end, the only process due for those who have never "been admitted into the country pursuant to law" is whatever process is "expressly conferred by Congress." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 138 (2020).

The supreme Court has elsewhere made clear that *lawful admission*—not physical entry—is the touchstone for when aliens gain due process interests that could potentially require procedures beyond what Congress has provided (and thus all that the due process clause requires under the entry fiction doctrine). For example, in *Landon v. Plasencia*, 459 U.S. 21 (1982), the Court observed that only "*once an alien gains admission* to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[]." *Id.* At 32 (emphasis added). "Th[is] rule," the Court explained, "rests on [the] fundamental proposition" that "the power to admit or exclude aliens is a sovereign prerogative," and "the Constitution gives the political department of the government plenary authority to decide which aliens to admit." *Id.* At 32.

Those conclusions put Petitioner's due process claims in this case on shaky ground because he is essentially challenging the constitutionality of § 1225(b)'s mandatory detention provisions. "The rule has been clear for decades: detention during deportation proceedings is constitutionally valid." *Banyee v. Garland*, 115 F.4th 928, 931 (8th Cir. 2024) (cleaned up); *see also Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003). *Banyee* and *Demore* analyzed detention under § 1226(c), but there is no constitutionally significant difference between the detention provisions in § 1226(c) and the provisions in § 1225(b) that govern Petitioner's detention in this case. *See Rodriguez*

v. Jeffreys, 2025 U.S. Dist. LEXIS 266244, at *43 (D. Neb. Dec. 29, 2025) (substantive and procedural due process challenge to § 1225(b) detention failed under *Banyee* and *Demore*). Take for instance Petitioner's allegation that Due Process requires the Respondents to afford him a bond hearing. Pet. p. 24 ¶ 7. Noncitizens detained under § 1226(c) do not receive bond hearings either. Yet the Eighth Circuit and Supreme Court have already rejected Due Process challenges to mandatory detention under that statute. An argument regarding the government not having a legitimate purpose fails, because the Eighth Circuit and Supreme Court precedent have already decided that mandatory detention under § 1226(c) passes constitutional muster because "the government can detain an alien for as long as deportation proceedings are still '*pending*.'" *Banyee*, 115 F.4th at 933 (original emphasis) (cleaned up).

Petitioners do not acknowledge *Banyee* or the fundamental defect in his Due Process challenge to detention under § 1225(b). That is a mistake. In the context of mandatory detention during removal proceedings, the Supreme Court has "already done whatever balancing is necessary." *Banyee*, 115 F.4th at 933. To the extent Petitioner disagrees with that balancing, he must take it up with Congress or the Supreme Court itself. Petitioner's Due Process claims in this case fail as a matter of law, and his habeas petition should therefore be denied. The same result should follow here.

IV. No violations of the APA or *Accardi* Doctrine

For the reasons discussed, *supra*, Petitioner failed to prove the agency failed to follow its regulations. *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The facts and documentation clearly show that the agency completely and methodically completed all its

regulated requirements. Petitioner cannot support an *Accardi* challenge for want of an arrest of warrant, because a warrant was properly issued and served. Decl. Ex. B. Form I-200, Warrant for Arrest of Alien issued on July 14, 2026, was based on probable cause established through biometric confirmation, records checks and other reliable information, i.e. prior ICE arrest. Decl., Ex. B. The NTA was issued prior to the arrest of the Petitioner, therefore, no violation of 8 C.F.R. § 236.1 exists. Decl., Ex. A. Although not necessary[8], service of Form I-200 was completed at the Dakota County Jail. Decl. ¶ 8. Service of the previously issued NTA was completed during administrative processing. Decl. Ex. A. Petitioner was advised of the reasons of his arrest, provided a list of free legal services and other ancillary documents. Decl., Ex. D. Petitioner was advised of consular processing. *Id.* Petitioner was given the opportunity to make phone call. *Id.* In each instance, Respondents followed and satisfied every regulation required under these particular facts. There is nothing to correct. In summation, Petitioner did not suffer an unlawful arrest under the Fourth Amendment, there are no APA violations, and an *Accardi* doctrine claim cannot take hold here. Thus, the Court should deny this habeas petition.

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[8] Courts in this District have held that validity of a warrant turns on whether the warrant was issued, not whether it was served. *Fernando C. C. v. Bondi*, No. 26-cv-1235 (LMP/JFD) (D. Minn. Feb. 17, 2026); *Tanneh W. S. v. Blanche*, No. 26-cv-2775 (LMP/EMB) (D. Minn. June 23, 2026)(holding an administrative warrant arrest warrant need not be served to be valid it need only be issued); *Rey A. v. Blanche*, No. 26-cv-2287 (NEB/JFD) (D. Minn. May 29, 2026) (Adoption R&R holding the Fourth Amendment speaks of issuance of warrants not the service of warrants).

Evidentiary Hearing

Respondents believe the Court can rule on this petition without holding an evidentiary hearing. Any disputed facts are resolved by submitted exhibits, and the only issues before the Court are ones of legal interpretation capable of resolution on the parties' submissions.

CONCLUSION

The Federal Respondents respectfully request that the Court deny this habeas petition in its entirety. Alternatively order a bond hearing and decline to award attorney fees under EAJA.

Dated: July 30, 2026

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