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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 RISHABH PRAKASH MALIK,

11 Petitioner,

12 v.

13 WARDEN OF THE GOLDEN STATE ANNEX
14 DETENTION FACILITY, et al.,

15 Respondents.
16

CASE NO. 1:25-CV-01607-TLN-AC

RESPONDENTS' OPPOSITION AND MOTION
TO DISMISS PETITION FOR WRIT OF
HABEAS CORPUS

17 This is far from a case of prolonged or indefinite detention. Rather, this matter involves an alien
18 from India detained at the San Francisco International Airport customs checkpoint after they sought to
19 enter United States to find work under false pretenses and without proper authorization. Upon
20 notification that the Petitioner would be returned to India, the Petitioner expressed a fear of returning to
21 India. Petitioner was detained under 8 U.S.C. 1225(b)(1)(B)(IV) requiring mandatory detention. The
22 Petitioner has not been released at any point.

23 Now, Petitioner attempts to sidestep the statutory process governing detention and removal.
24 Notwithstanding that Petitioner is receiving lawful process in Immigration Court, has requested delays
25 and continuances to gather additional evidence, and has acknowledged they were attempting to enter the
26 United States to engage in unauthorized work, Petitioner has now asked this Court under 28 U.S.C. §
27 2241 to either hold a hearing to determine that Petitioner's detention is not justified or order the
28 Petitioner's release unless a hearing before an IJ is scheduled within 30 days. (ECF 1 at 18-19.)

1 This matter should be dismissed for two related reasons. First, the Immigration and Nationality
2 Act (“INA”) plainly mandates detention of inadmissible aliens who, like Petitioner, did not arrive to the
3 United States with a lawful basis for entry, are subject to expedited removal proceedings, and who have
4 expressed an intention to seek relief from removal by claiming asylum. Second, Petitioner has not
5 pursued appropriate remedies in the Immigration Court.

6 To the extent this Court reaches the due process grounds raised by Petitioner in their request for
7 a writ of habeas corpus under 28 U.S.C. § 2241, and applies a balancing test to weigh the merits of the
8 due process claim, the Court should recognize that the administrative removal process has not been
9 allowed to play out and that Petitioner’s detention has not been extensive. The Court should deny the
10 petition.

11 **I. FACTUAL AND PROCEDURAL BACKGROUND**

12 Petitioner is a native and citizen of India. Meneses Decl. ¶ 6. On April 4, 2025, Petitioner
13 arrived at the San Francisco International Airport from New Delhi, India. Petitioner presented a valid,
14 unexpired India passport and a valid B1/B2 United States Visa. *Id.* At customs, Petitioner claimed that
15 they planned to travel until September 30 (2025) and only had \$6,000 and a credit card. Resp. Exh. 1 at
16 2. Petitioner stated they had no reservations while in the United States. *Id.* Petitioner was then referred
17 for secondary inspection. Meneses Decl. ¶ 6.

18 During a secondary inspection, a database check revealed Petitioner had previously been in the
19 United States for eleven days in 2023 and roughly three months during 2019. Resp. Exh. 1 at 3. During
20 questioning with a CBP Agent, Petitioner provided a sworn statement and admitted that prior to
21 travelling to the United States in April 2025, they had contacted an ex-girlfriend to help Petitioner find
22 employment in the United States and that Petitioner intended to engage in unauthorized employment
23 while here. *Id.*; Meneses Decl. ¶ 7. Petitioner’s visa was cancelled and Petitioner was subsequently
24 ordered removed from the United States under Section 235(b)(1) of the Immigration and Nationality Act
25 (INA) and barred from entry into the United States. Meneses Decl. ¶ 7; Resp. Exhs. 1 at 3; Resp. Exh.
26 2.

27 Petitioner later claimed a fear of return to their country of origin and Petitioner was then
28 scheduled for a credible fear interview. Meneses Decl. at ¶ 8. After a positive fear determination was

made, Petitioner was issued a Notice to Appear, placed removal proceedings before an immigration judge as an arriving alien who is inadmissible under INA § 212(a)(7)(A)(i)(I). *Id.*

On July 9, 2025, Petitioner appeared in immigration court and contested the charge of inadmissibility. *Id.* at ¶ 9. On July 30, 2025, the Immigration Judge sustained the charge of inadmissibility and directed India as the country for removal. Petitioner's case was then set over for the filing of any applications for relief from removal. *Id.* at ¶ 10. Petitioner appeared in Immigration Court on September 4, 2025, and December 10, 2025. *Id.* at ¶ 11. On September 4, 2025, Petitioner applied for relief from removal and their case set of a final hearing to adjudicate the pending applications. *Id.* On December 10, 2025, the Immigration Judge granted Petitioner's request for a continuance for more time to obtain additional evidence and to secure counsel. *Id.* Petitioner's case is currently set for final hearing on February 19, 2026. *Id.* at ¶ 12. Petitioner remains subject to mandatory detention under INA § 235(b) / 8 U.S.C. 1225(b)(1)(B)(IV). *Id.* at ¶ 13.

A. Petitioner's Detention Is Mandated by Statute and Supreme Court Precedent.

In these circumstances, Petitioner's demand for a writ of habeas corpus is tantamount to challenging the statutory directive that aliens arriving in the United States without justification be detained. As an arriving alien without valid entry documentation, placed in expedited removal, and claiming a credible fear in connection with that expedited removal proceeding, Petitioner is subject to mandatory detention. These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii). An alien "with a credible fear of persecution . . . shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added). As to mandatory detention, 8 C.F.R. § 1003.19(h)(2)(i)(B) provides that an Immigration Judge may not redetermine the conditions of custody imposed by DHS on "[a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the [INA]".

Petitioner's status is provided for and consistent with the statute. "As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). The INA

1 defines an “applicant for admission” as an “alien present in the United States who has not been admitted
2 or who arrives in the United States (whether or not at a designated port of arrival ...) ...” 8 U.S.C. §
3 1225(a)(1). The Supreme Court has explained that 8 U.S.C. § 1225(b)(1) is “quite clear” and
4 “unequivocally mandate[s]” detention. *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018). Indeed,
5 *Jennings* highlighted the express requirement of the statute and pointed to the well-known doctrine that
6 “the word ‘shall’ usually connotes a requirement.” *Id.* at 303 (quoting *Kingdomware Technologies, Inc.*
7 *v. United States*, 579 U.S. 162, 171 (2016)). To that end, “[r]ead most naturally, § 1225(b)(1) ... thus
8 mandate[s] detention of applicants for admission until certain proceedings have concluded,” which is
9 when “immigration officers have finished ‘consider[ing]’ the asylum application.” 583 U.S. at 283, 287.

10 Applicants for admission placed into expedited removal are subject to detention under 8 U.S.C. §
11 1225(b)(1). Such aliens, including those referred for removal proceedings under 8 U.S.C. § 1229a after
12 establishing a credible fear of persecution or torture, are not owed a bond hearing before an Immigration
13 Judge. 8 U.S.C. § 1225(b)(1)(B)(ii); 8 U.S.C. § 1225(b)(1)(iii)(IV) (“Any alien subject to the
14 procedures under this clause shall be detained pending a final determination of credible fear of
15 persecution and, if found not to have such a fear, until removed.”). The award of temporary parole,

16 In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court rejected a facial challenge to
17 mandatory civil detention pending removal proceedings. Like the petitioner in *Demore*, Petitioner’s
18 detention is mandatory (under 8 U.S.C. § 1225(b) because they entered the United States without entry
19 documents). As in *Demore*, both constitutionally and as a matter of statute, Petitioner’s continued
20 mandatory civil detention is warranted.

21 Petitioner incorrectly relies on a series of cases addressing detention under 8 U.S.C. § 1225(b)(2)
22 and §1226 to argue that that they are entitled to a bond hearing within a six-month timeframe either as a
23 statutory or constitutional matter. ECF 1 at 10-11.¹ These cases do not stand for the proposition that
24 Petitioner asserts because Petitioner is not detained under the same statutory provisions as those
25 petitioners. Namely, the Petitioner in each of these cases was discretionarily detained under 8 U.S.C. §
26 1226, whereas the Petitioner in the instant case is under §1225 mandatory detention. As a result, the

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28 ¹ Primarily, Petitioner cites *Zadvydas v. Davis*, 533 U.S. 678(2001) ; *Rodriguez Diaz v. Garland*,
53 F.4th. 1189, 1191 (9th Cir. 2022).

authorities Petitioner relies upon do not establish that they are entitled to the same relief.

In *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018), the Supreme Court rejected the Ninth Circuit's interpretation that 8 USC § 1226(c) – a statute also compelling mandatory detention (as in this case under 8 U.S.C. § 1225(b)) – included “an implicit 6-month time limit on the length of mandatory detention.” 138 S. Ct. at 842, 846, 847–48. Prior to *Jennings*, the Ninth Circuit had held in *Rodriguez v. Robbins* that mandatory detention under 8 U.S.C. § 1225(b) is implicitly time-limited and expires after six months, citing the canon of constitutional avoidance. 715 F.3d 1137, 1138-44 (9th Cir. 2013). But in *Jennings*, the Supreme Court expressly rejected that notion and found that the Ninth Circuit misapplied the constitutional avoidance canon to find a statutory right to “periodic bond hearings every six months in which the Attorney General must prove by clear and convincing evidence that the alien's continued detention is necessary.” 583 U.S. at 304, 306.

This Court has recognized that there is no litmus test as to the amount of time detained. *Navarrete-Leiva v. U.S. Attorney General, et al.*, 1:24-cv-00938-SKO, 2024 WL 5111780 (E.D. Cal. Dec. 13, 2024) (denying § 2241 Petitioner's claim that the U.S. Constitution requires a bond hearing for continued detention during removal proceedings beyond six months); *Abdul-Samed v. Warden of the Golden State Annex Detention Facility*, 1:25-cv-00098, 2025 WL 2099343, at *5 (E.D. Cal. July 25, 2025) (declining to adopt a presumption of reasonableness or unreasonableness as to a period of detention).

B. Petitioner Has Not Pursued Relief in the Immigration Court.

Petitioner asks this court to order a bond hearing regarding their release, either in this Court and in the alternative in Immigration Court. (ECF 1 at 17.)

To expect Petitioner to continue to seek relief from the Immigration Court in these circumstances would not be to require complete administrative exhaustion. As a matter of prudence, it would be to prevent petitions for habeas corpus in this Court to be an end-around to administrative removal proceedings and the relief that is available associated with those proceedings. See *Castro-Cortez v. I.N.S.*, 239 F.3d 1037, 1047 (“[W]e require, as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241.”) (citation omitted), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30, 38, n.6 (2006), as

1 *recognized by Morales-Izquierdo v. Gonzales*, 477 F.3d 691, 704 (9th Cir. 2007); *Paz Nativi v.*
2 *Shanahan*, No. 16-CV-8496, 2017 WL 281751, at *1 (S.D.N.Y. Jan. 23, 2017) (finding that although
3 “[t]here is no statutory requirement of administrative exhaustion before immigration detention may be
4 challenged in federal court by a writ of habeas corpus,” courts generally require such exhaustion “as a
5 prudential matter.”). Indeed, when a petitioner has been afforded process, this Court has described
6 habeas petitions based on due process violations as “not well-taken.” *Navarrete-Leiva v. U.S. Attorney*
7 *General, et al.*, 1:24-cv-00938-SKO, 2024 WL 5111780, at *3 (E.D. Cal. Dec. 13, 2024) (noting the
8 petitioner had twice been reviewed for consideration of parole release and was denied). That approach
9 is consistent with the Supreme Court’s express ruling in *Jennings*, which stated that 8 USC § 1225(b)
10 “mandate[s] detention of aliens throughout the completion of applicable proceedings and not just until
11 the moment those proceedings begin.” 583 U.S. at 302.

12 Here, Petitioner requested a bond from an Immigration Judge, who ruled Petitioner ineligible for
13 a bond due to the same reasons cited above. Petitioner did not attempt review of that decision by the
14 BIA. As such, Petitioner has available paths to pursue administrative remedies to detention. Moreover,
15 Petitioner is engaged in ongoing litigation in Immigration Court contesting their removability. In doing
16 so, Petitioner has requested additional time to obtain evidence and hire counsel. While Petitioner
17 certainly has the rights to pursue these avenues, these proceedings have not reached their resolution or
18 appropriate review by the BIA. For the Court to step in at this juncture would be to usurp and undermine
19 authority of the Immigration Court to resolve these matters.

20 **C. Petitioner Has Not Experienced Any Due Process Violation**

21 Although the Fifth Amendment entitles aliens to due process of law, the Ninth Circuit interprets
22 the Due Process Clause “consistent with longstanding precedent recognizing that the process due aliens
23 must account for the government’s countervailing interests in immigration enforcement – considerations
24 that do not apply to U.S. citizens.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th Cir. 2022).
25 It is well-established that “Congress may make rules as to aliens that would be unacceptable if applied to
26 citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003). This is true because “any policy toward aliens is
27 vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign
28 relations, the war power, and the maintenance of a republican form of government, which are core

sovereign powers.” *Id.* “The Supreme Court has accordingly long upheld Congress’s authorization of ‘detention during deportation proceedings as a constitutionally valid aspect of the deportation process.’” *Id.* at 523 (citation omitted).

The use of a multi-factor balancing test to analyze Petitioner’s statutorily-compelled detention (a period, to date, of about nine months) is unsupported by Supreme Court authority. Across numerous cases involving the INA, the Supreme Court has not adopted a multi-factor balancing test for constitutional due process challenges to civil detention in removal proceedings. *See Dusenbery v. United States*, 534 U.S. 161, 168 (2002) (“[W]e have never viewed *Mathews* as announcing an all-embracing test for deciding due process claims.”); *Demore*, 538 U.S. at 513; *Jennings*, 583 U.S. at 303 to 306; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022) (stating “the [Supreme] Court has recently backed away from multi-factorial “grand unified theor[ies]” for resolving legal issues”); *see also Hart v. Massanari*, 266 F.3d 1155, 1171 (9th Cir. 2001) (“A decision of the Supreme Court will control that corner of the law unless and until the Supreme Court itself overrules or modifies it. Judges of the inferior courts may voice their criticisms but follow it they must.”). That is particularly apt here where, as here, Petitioner has been afforded process that they has not pursued. *See Navarrete-Leiva*, 2024 WL 5111780 (E.D. Cal. Dec. 13, 2024).

When courts in this Circuit have analyzed an alien’s due process through balancing tests, they have taken various approaches and applied various tests, as set forth below. *See Abdul-Samed v. Warden of the Golden State Annex Detention Facility*, 1:25-cv-00098, 2025 WL 2099343, at *5 (E.D. Cal. July 25, 2025). Neither of the most common tests favors Petitioner.

1. The *Mathews* Test Does Not Favor Petitioner.

The traditional test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), is a flexible test that can and must account for the heightened governmental interest in the immigration detention context. *Rodriguez Diaz*, 53 F.4th at 1206. Under *Mathews*, the “identification of the specific dictates of due process generally requires consideration of three distinct factors.” *Mathews*, 424 U.S. a 334-35. “First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest, including the function involved

1 and the fiscal and administrative burdens that the additional or substitute procedural requirement would
2 entail.” *Id.* at 335. Assuming, without conceding that *Mathews* applies here, the petitioner’s claims fail
3 under the *Mathews* test.

4 *a. The Private Interest That Will Be Affected*

5 Petitioner’s private interest does not weigh in their favor. As the Supreme Court noted in
6 *Demore*, while decisions to prolong one’s own detention may be difficult, “the legal system . . . is
7 replete with situations requiring the making of difficult judgments as to which course to follow,” and
8 “even in the criminal context, there is no constitutional prohibition against requiring parties to make
9 such choices.” *Demore*, 538 U.S. at 530 n. 14 (quoting *McGautha v. California*, 402 U. S. 183, 213
10 (1971)). While a noncitizen’s private interest in “freedom from prolonged detention” is “unquestionably
11 substantial,” *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011), *abrogated on other grounds as*
12 *recognized by*
13 *Rodriguez Diaz*, 53 F.4th at 1202, the same cannot be said for freedom from all detention itself. *See*
14 *e.g., Rodriguez v. Marin*, 909 F.3d 252, 256-57 (9th Cir. 2018) (stating that court had “grave doubts that
15 any statute that allows for arbitrary prolonged detention without any process is constitutional or that
16 those who founded our democracy precisely to protect against the government’s arbitrary deprivation of
17 liberty would have thought so.”) (emphasis added); *Zadydas v. Davis*, 533 U.S. 678, 701 (2001)
18 (stating that an alien is not entitled to habeas relief after the expiration of the presumptively reasonable
19 six-month period of detention under 8 U.S.C. § 1231(a)(6) unless they can show that their detention is
20 “indefinite” – i.e., that there is “good reason to believe that there is no significant likelihood in the
21 reasonably foreseeable future.”). Here, as set forth above, Petitioner’s detention is mandatory, in
22 connection with their pursuit of entry into the United States without valid entry documentation and
23 subsequent request for asylum review. The Petitioner has made no showing that their detention is
24 indefinite or that there is no significant likelihood of their release in the near future. Additionally, any
25 current delay in Petitioner’s removal proceedings is due to Petitioner’s own actions, specifically through
26 contesting their removal, seeking continuances for more time to obtain evidence and to secure counsel.
27 Under the first prong of *Mathews* balancing, weight is given to the process Petitioner received during
28

1 their detention and to Petitioner's own requests, which prolonged the detention. *Rodriguez Diaz v.*
 2 *Garland*, 53 F.4th 1189, 1206-07 (9th Cir. 2022); *Demore*, 538 U.S. at 530-31.

3 Petitioner's conditions in detention do not change this analysis. "The appropriate remedy for
 4 such constitutional violations, if proven, would be a judicially mandated change in conditions and/or an
 5 award of damages, but not release from confinement." *Crawford v. Bell*, 599 F.2d 890, 892 (9th Cir.
 6 1979). Such claims cannot be raised in a habeas petition, and instead must brought, if at all, in a "civil
 7 rights action." *Brown v. Blanckensee*, 857 F. App'x 289, 290 (9th Cir. 2021) (claim that prison violated
 8 inmate's First Amendment and property rights "lies in a civil rights action . . . rather than a § 2241
 9 petition"); *see also Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (holding that a habeas petition was
 10 not "the proper method of challenging 'conditions of . . . confinement'").

11
 12 *b. Risk of an Erroneous Deprivation of Petitioner's Interest Through the Procedures
 at Hand*

13 The second *Mathews* factor is "the risk of an erroneous deprivation of [the petitioner's] interest
 14 through the procedures used, and the probative value, if any, of additional or procedural safeguards."
 15 *Mathews*, 424 U.S. at 335. This factor does not favor Petitioner because the process of seeking relief
 16 from removal, including based on asylum for cases involving credible fear of persecution or torture, is
 17 the statutorily-created structure for those in Petitioner's circumstances. As for other aliens seeking
 18 relief, detention is mandatory under the statute. The statute does not look to whether the noncitizen can
 19 establish that, in their or her particular case, they is not a flight risk or a danger to the community.

20 *c. The Government's Interest*

21 Under the third *Mathews* factor, "the government clearly has a strong interest in preventing
 22 noncitizens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*, 53 F.4th at
 23 quoting *Demore*, 538 U.S. at 518). Here, the government's interest in detaining the petitioner is high.
 24 "Enforcement of our immigration law serves both a domestic law enforcement and foreign relations
 25 function." *Id.* "The Supreme Court has thus specifically instructed that in a *Mathews* analysis,
 26 we 'must weigh heavily in the balance that control over matters of immigration is a sovereign
 27 prerogative, largely within the control of the executive and the legislature.'" *Id.* (quoting *Landon v.*
 28 *Placencia*, 459 U.S. 21, 34 (1982)). "Over no conceivable subject is the legislative power of Congress

1 more complete.” *Id.* (quoting *Reno v. Flores*, 507 U.S. 292, 305 (1993)). “Through detention, the
2 government likewise seeks to ‘increas[e] the chance that, if ordered removed, the aliens will be
3 successfully removed.’” *Id.* (quoting *Demore*, 538 U.S. at 528); *see also Nken v. Holder*, 556 U.S. 418,
4 436 (2009) (“There is always a public interest in prompt execution of removal orders: The continued
5 presence of an alien lawfully deemed removable . . . permits and prolongs a continuing violation of
6 United States law.”). In addition, “[t]he risk of a detainee absconding also inevitably escalates as the
7 time for removal becomes more imminent.” *Rodriguez Diaz*, 53 F.4th at 1208.

8 9 **II. CONCLUSION**

10 Petitioner’s mandatory detention continues to serve legitimate, congressionally mandated goals
11 with respect to aliens seeking entry into the United States without valid justification and is consistent
12 with the process created to evaluate applications for relief from removal. Petitioner should not be
13 allowed to short-circuit that process through an unsupported demand for release or a bond hearing via a
14 writ of habeas corpus. The Court should dismiss the Petition or deny it as failing to offer sufficient
15 grounds for due process challenge.

16 Dated: December 19, 2025

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8 EASTERN DISTRICT OF CALIFORNIA
9

10 RISHABH PRAKASH MALIK,

11 Petitioner,

12 v.

13 WARDEN OF THE GOLDEN STATE
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14 Respondents.
15

CASE NO. 1:25-cv-01607-TLN-AC

CERTIFICATE OF SERVICE BY EMAIL AND
PACER FILING

16
17 The undersigned hereby certifies that he is an employee in the Office of the United States
18 Attorney for the Eastern District of California and is a person of such age and discretion to be competent
19 to serve papers. That on December 19, 2025, a copy of the Respondent's OPPOSITION AND
20 MOTION TO DISMISS was served on counsel for Petitioner by email and PACER filing.
21

22 Dated: December 19, 2025

ERIC GRANT
United States Attorney

23
24 By: /s/ LUKE BATY
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27
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