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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANIL KUMAR,

Petitioner,

v.

WARDEN OF THE GOLDEN STATE
ANNEX DETENTION FACILITY, et al.,¹

Respondents.

CASE NO. 1:25-CV- 01709-DAD-EFB

RESPONSE TO PETITIONER'S HABEAS
CORPUS PETITION

I. INTRODUCTION

Petitioner Anil Kumar ("Petitioner") is a citizen of India who entered the United States illegally. He is thus an "applicant for admission" who is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).² The Court should deny the request for habeas corpus because Petitioner is neither

¹ Respondent moves to strike and to dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief is limited to name only the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024) (holding, that the warden of the private detention facility at which a non-citizen alien was held was the proper § 2241 respondent).

² The government recognizes that other courts have recently rejected similar arguments in cases involving other aliens detained under § 1225(b). *See Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO, 2025 U.S. Dist. LEXIS 176145 (E.D. Cal. Sep. 9, 2025); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB, 2025 U.S. Dist. LEXIS 162801 (E.D. Cal. Aug. 21, 2025); *Castellon v. Kaiser et al.*, No. 1:25-CV-00968-JLT-EPG, 2025 U.S. Dist. LEXIS 157841 (E.D. Cal. Aug. 14, 2025); *Maklad v. Murray*, No. 1:25-CV-00946-JLT-SAB, 2025 U.S. Dist. LEXIS 153675 (E.D. Cal. Aug. 8, 2025); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 U.S. Dist. LEXIS 37929 (E.D. Cal. Mar. 3, 2025).

entitled to a pre-deprivation hearing nor release during the pendency of his immigration proceedings.

II. REQUEST FOR ABEYANCE

The 8 U.S.C. §§ 1225 and 1226 issue is arising in many immigration cases, including *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025), which is on an expedited appeal to the Ninth Circuit and appears to be set for argument on the February 2026 calendar (Ninth Circuit Docket No. 25-6842). The statutory analysis in that case may be dispositive of issues herein. The Court may wish to hold this matter in abeyance pending resolution of that Ninth Circuit appeal.

III. FACTUAL AND PROCEDURAL BACKGROUND

On December 2, 2025, Petitioner, acting *pro se*, filed his § 2241 habeas corpus petition. ECF 1, 2. Petitioner argues that his detention by ICE is unlawful because there has been no judicial finding of his risk of flight or danger. ECF 1 at 2, 5. The Court appointed counsel to represent Petitioner, who made their first appearance on January 8, 2026. ECF 8, 12, 14, 15. On January 14, 2026, the Court vacated all briefing schedules. On January 16, 2026, the Court signed an order that Respondents file their response by January 19 and Petitioners reply by January 23; however, the order was not docketed by the clerk until January 20, 2026, four days late and a day after the response was due.³

Attorneys for U.S. Immigration and Customs Enforcement have confirmed that Petitioner is currently subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1). According to ICE attorneys, Petitioner is a native and citizen of India who entered the United States unlawfully and without inspection on and was first encountered by DHS on or around June 9, 2023. At that time, Petitioner was issued a Notice to Appear under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA). On or about March 2024, Petitioner filed an application for asylum with USCIS. On November 30, 2024, Petitioner was arrested by Sacramento Police Department in Sacramento County for Domestic Violence in violation of California Penal Code Section 243(E)(1). On September 11, 2025, Petitioner agreed to a consensual interview with a Deportation Officer Moradi, during which he admitted that he is a citizen of India. After that interview, Petitioner was detained pursuant to 8 U.S.C. § 1225(b)(1).

³ Counsel for respondents is currently on vacation and traveling from January 16 through January 25, 2026, with poor internet and cellular reception, and only belatedly saw the Court's late-docketed Order that set the deadline for a response. Counsel respectfully requests the Court accept this late-filed response, which is filed only three days after the Court's order was docketed.

1 They also indicated that Petitioner was re-detained in November 2025 because he was placed
 2 into expedited removal proceedings at that time. See attachment A. Recently, the Immigration Judge
 3 vacated USCIS's negative credible fear determination, Petitioner will now be served with a notice to
 4 appear, placing him into removal proceedings, however the detention authority remains 18 U.S.C. §
 5 1225(b)(1) because Petitioner was a non-citizen placed in expedited removal.]

6 IV. LEGAL STANDARDS

7 The Immigration and Nationality Act ("INA") defines an "applicant for admission" as an "alien
 8 present in the United States who has not been admitted or who arrives in the United States (whether or
 9 not at a designated port of arrival . . .)." 8 U.S.C. § 1225(a)(1); *Dep't of Homeland Sec. v.*
 10 *Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country
 11 illegally is treated as an 'applicant for admission'" under 8 U.S.C. § 1225(a)(1)); *Jennings v. Rodriguez*,
 12 583 U.S. 281, 287 (2018) ("an alien who 'arrives in the United States,' or 'is present' in this country but
 13 'has not been admitted,' is treated as 'an applicant for admission.'" (citing 8 U.S.C. § 1225(a)(1));
 14 *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant
 15 for admission' in an unconventional sense, to include not just those who are expressly seeking
 16 permission to enter, but also those who are present in this country without having formally requested or
 17 received such permission").

18 Under Section 1225, applicants for admission may be removed from the United States by, *inter*
 19 *alia*, expedited removal under 8 U.S.C. § 1225(b)(1) or removal proceedings before an Immigration
 20 Judge under 8 U.S.C. § 1229a. These noncitizens "fall into one of two categories, those covered by §
 21 1225(b)(1) and those covered by § 1225(b)(2)," both of which are subject to mandatory detention.
 22 *Jennings*, 583 U.S. at 287 ("[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for
 23 applicants for admission until certain proceedings have concluded.").

24 V. ARGUMENT

25 The Petitioner is lawfully detained pending adjudication of his asylum application and removal
 26 proceedings. As an applicant for admission, Petitioner is subject to mandatory detention and thus
 27 ineligible for a bond hearing. Therefore, there is no basis for habeas relief or a temporary restraining
 28 order.

The basic facts in this case are undisputed. The Petitioner is an alien who is present in the United States and has not been admitted to the United States. Accordingly, the Petitioner is an applicant for admission. Any alien who “is present” in the United States but “has not been admitted” to the United States is “an applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also Jennings*, 583 U.S. at 287. Accordingly, Petitioner is subject to mandatory detention under statutory immigration law. 8 U.S.C. § 1225(b)(2)(A); *see generally Dominguez v. Noem*, No. 1:25-CV-1577-JDP, 2025 WL 3268507 (E.D. Cal. Nov. 24, 2025).

The Petitioner argues he is entitled to continued release and a pre-deprivation hearing under the Due Process Clause of the Constitution. At bottom, the Petitioner’s claim is that DHS previously treated aliens like the Petitioner as subject to § 1226(a) and not § 1225(b)(1), so therefore the Petitioner (and all other similarly situated aliens) must always be subject to § 1226(a). This argument fails because the fact that Executive Branch exercised discretion in one way in the past does not transform that discretionary act into an entitlement. Instead, the “procedural due process” owed to the Petitioner “is simply ‘[w]hatever the procedure authorized by Congress’ happens to be.” *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015) (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)). Here, § 1225 provides that process “[a]nd neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297. Accordingly, the Court should deny the habeas corpus petition because he must be detained under the operative statute, and he has no right to a pre-deprivation hearing.

VI. CONCLUSION

For the foregoing reasons, Petitioner’s Habeas Corpus Petition should be denied.

Dated: January 23, 2026

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By: /s/ Veronica Alegria
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