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7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 SARFARAZ MOHAMMED,

12 Petitioner,

13 v.

14 RON MURRAY, *et al.*,

15 Respondents.
16

CASE NO. 1:25-cv-01761-TLN-DMC

**OPPOSITION TO PETITION FOR WRIT
OF HABEAS CORPUS**

17
18 Pursuant to the Court's order (ECF No. 4), Respondents submit this opposition to Petitioner's
19 petition for a writ of *habeas corpus* (ECF No. 1).¹ Petitioner is mandatorily detained pursuant to 8
20 U.S.C. § 1225(b). Respondents therefore respectfully request that the Court deny the petition.

21 **FACTUAL BACKGROUND**

22 Petitioner is a citizen of Fiji, who entered the United States without inspection or admission. U.S.
23 Customs and Border Protection ("CBP") took Petitioner into custody in the Champlain, New York, area
24 on or about July 5, 2024. The U.S. Department of Homeland Security ("DHS") placed Petitioner in
25

26 ¹ On December 10, 2025, the Court ordered Respondents to file a response to the petition within 14 days. (ECF
27 No. 4.) Petitioner asserts that Respondents failed to meet the Court's deadline. (*See* ECF No. 6.) However,
28 fourteen days after December 10, 2025, was December 24, 2025, and December 24 through December 26 were
federal holidays. 5 U.S.C. § 6103(a); Exec. Order No. 14371, 90 C.F.R. 60545 (2025). Furthermore, December 27
and 28 were a Saturday and a Sunday, respectively. Thus, pursuant to Federal Rule of Civil Procedure 6, the
effective deadline for Respondents to file a response is December 29, 2025. Fed. R. Civ. P. 6(a)(1).

1 removal proceedings pursuant to 8 U.S.C. § 1229a, finding Petitioner inadmissible to the United States
 2 pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). DHS released Petitioner from custody on an Order of Release
 3 on Recognizance (“OREC”).

4 On November 8, 2025, DHS took Petitioner into custody due to violations of the Alternative to
 5 Detention (“ATD”) Intensive Supervisions Appearance Program (“ISAP”). The ISAP required
 6 Petitioner to complete “self-report check-ins” from within his “zone,” i.e., from his home. However,
 7 Petitioner completed multiple check-ins between February and June of this year from outside his home.

8 On December 5, 2025, Petitioner filed a petition for a writ of *habeas corpus* with this Court.
 9 (ECF No. 1.) Petitioner seeks, *inter alia*, an order requiring his immediate release from immigration
 10 detention and barring his re-detention unless, at a custody hearing before a neutral arbiter, Respondents
 11 prove by clear and convincing evidence that he is a danger or a flight risk. (ECF No. 1 at 13.)

12 LEGAL ARGUMENT

13 A. Petitioner’s Detention Is Mandated by Statute

14 “As with any question of statutory interpretation, [the] analysis begins with the plain language of
 15 the statute.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526,
 16 534 (2004)). Section 1225(a)(1) defines an “applicant for admission” as an “alien present in the United
 17 States who has not been admitted or who arrives in the United States (whether or not at a designated port
 18 of arrival . . .)” 8 U.S.C. § 1225(a)(1); *see Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5
 19 (BIA 2014) (“[R]egardless of whether an alien who illegally enters the United States is caught at the
 20 border or inside the country, he or she will still be required to prove eligibility for admission.”).
 21 Accordingly, by its very definition, the term “applicant for admission” includes two categories: (1)
 22 arriving noncitizens, and (2) noncitizens present without admission. *See Dep’t of Homeland Sec. v.*
 23 *Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that “an alien who tries to enter the country
 24 illegally is treated as an ‘applicant for admission’” (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25
 25 I&N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an
 26 unconventional sense, to include not just those who are expressly seeking permission to enter, but also
 27 those who are present in this country without having formally requested or received such
 28 permission”); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that “the

1 broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States
 2 who has not been admitted” (citing 8 U.S.C. § 1225(a)(1))). An arriving alien is defined, in pertinent
 3 part, as “an applicant for admission coming or attempting to come into the United States at a port-of-
 4 entry [(“POE”)]” 8 C.F.R. §§ 1.2, 1001.1(q).

5 All applicants for admission “shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3);
 6 *see also* 8 C.F.R. § 235.1(a) (“Application to lawfully enter the United States shall be made in person to
 7 an immigration officer at a U.S. [POE] when the port is open for inspection”). An applicant for
 8 admission seeking admission at a United States POE “must present whatever documents are required
 9 and must establish to the satisfaction of the inspecting officer that the alien is not subject to
 10 removal . . . and is entitled, under all of the applicable provisions of the immigration laws . . . to enter
 11 the United States.” 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. § 1229a(c)(2)(A) (describing the related burden
 12 of an applicant for admission in removal proceedings). “An alien present in the United States who has
 13 not been admitted or paroled or an alien who seeks entry at other than an open, designated [POE] . . . is
 14 subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C.
 15 § 1229a].” 8 C.F.R. § 235.1(f)(2).

16 Here, Petitioner did not present himself at a POE but instead entered the United States between
 17 POEs and without having been admitted after inspection by an immigration officer. Petitioner is,
 18 therefore, a noncitizen present without admission and, consequently, an applicant for admission.

19 Both arriving noncitizens and those present without admission, as applicants for admission, may
 20 be removed from the United States by, *inter alia*, expedited removal procedures under 8 U.S.C. §
 21 1225(b)(1) or removal proceedings before an immigration judge (“IJ”) under 8 U.S.C. § 1229a. 8 U.S.C.
 22 §§ 1225(b)(1), (b)(2)(A), 1229a; *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing how
 23 “applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those
 24 covered by § 1225(b)(2)”). Immigration officers have discretion to apply expedited removal under 8
 25 U.S.C. § 1225(b)(1) or to initiate removal proceedings before an IJ under 8 U.S.C. § 1229a. *E-R-M- &*
 26 *L-R-M-*, 25 I&N Dec. at 524; *see also Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (“DHS may
 27 place aliens arriving in the United States in either expedited removal proceedings under [8 U.S.C. §
 28 1225(b)(1)], or full removal proceedings under [8 U.S.C. § 1229a]” (citations omitted)).

1 Applicants for admission whom DHS places in § 1229a removal proceedings, such as Petitioner
 2 is here, are subject to detention and ineligible for a custody redetermination hearing before an IJ. Such
 3 persons are both applicants for admission as defined in 8 U.S.C. § 1225(a)(1) *and* noncitizens “seeking
 4 admission” as contemplated in 8 U.S.C. § 1225(b)(2)(A). These noncitizens are subject to detention
 5 under 8 U.S.C. § 1225(b)(2)(A) and thus ineligible for a bond redetermination hearing.

6 Section 1225(b)(2)(A) “serves as a catchall provision that applies to all applicants for admission
 7 not covered by § 1225(b)(1).” *Jennings*, 583 U.S. at 287; *see* 8 U.S.C. § 1225(b)(2)(A), (B). Under this
 8 provision, “an alien who is an applicant for admission” “*shall be detained* for a proceeding under [8
 9 U.S.C. § 1229a]” “if the examining immigration officer determines that [the] alien seeking admission is
 10 not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added); 8
 11 C.F.R. § 235.3(b)(3) (providing that a noncitizen placed into 8 U.S.C. § 1229a removal proceedings in
 12 lieu of expedited removal proceedings under 8 U.S.C. § 1225 “shall be detained” pursuant to 8 U.S.C.
 13 § 1225(b)(2)); 8 C.F.R. § 235.3(c) (providing that “any arriving alien . . . placed in removal proceedings
 14 pursuant to [8 U.S.C. § 1229a] shall be detained in accordance with [8 U.S.C. § 1225(b)]” unless
 15 paroled pursuant to 8 U.S.C. § 1182(d)(5)).

16 Thus, according to the plain language of section 1225(b)(2)(A), applicants for admission in 8
 17 U.S.C. § 1229a removal proceedings are subject to mandatory detention. “The ‘strong presumption’ that
 18 the plain language of the statute expresses congressional intent is rebutted only in ‘rare and exceptional
 19 circumstances,’ . . .” *Ardestani v. INS*, 502 U.S. 129, 135–36 (1991) (quoting *Rubin v. United States*,
 20 449 U.S. 424, 430 (1981)); *see Lamie*, 540 U.S. at 534 (“It is well established that when the statute’s
 21 language is plain, the sole function of the courts—at least where the disposition required by the text is
 22 not absurd—is to enforce it according to its terms.” (quotation marks omitted)). As the Supreme Court
 23 observed in *Jennings*, nothing in section 1225(b)(2)(A) “says anything whatsoever about bond
 24 hearings.” 583 U.S. at 297. Further, there is no textual basis for arguing that the statute applies only to
 25 arriving noncitizens.

26 On September 5, 2025, the BIA issued a published decision in *Matter of Yajure Hurtado*, 29
 27 I&N Dec. 216 (BIA 2025). In its decision, the BIA affirmed “the Immigration Judge’s determination
 28 that he did not have authority over [a] bond request because aliens who are present in the United States

without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.” *Yajure Hurtado*, 29 I&N Dec. at 220. The BIA’s decision is consistent not only with the plain language of 8 U.S.C. § 1225(b)(2), but also with the Supreme Court’s 2018 decision in *Jennings* and other caselaw issued thereafter. In *Jennings*, the Supreme Court explained that 8 U.S.C. § 1225(b) applies to all applicants for admission, noting that the language of 8 U.S.C. § 1225(b)(2) is “quite clear” and “unequivocally mandate[s]” detention. 583 U.S. at 300, 303 (explaining that “the word ‘shall’ usually connotes a requirement” (quoting *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 162, 171 (2016))).

Given that 8 U.S.C. § 1225 is the applicable detention authority for all applicants for admission—both arriving noncitizens and those present without admission—and given that “[b]oth [8 U.S.C. § 1225(b)(1) and (b)(2)] mandate detention ... throughout the completion of applicable proceedings,” *Jennings*, 583 U.S. at 301–03, IJs do not have authority to redetermine the custody status of a noncitizen present without admission.

Here, Petitioner is an applicant for admission (specifically, a noncitizen present without admission), placed into removal proceedings under 8 U.S.C. § 1229a. He is therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and ineligible for a custody redetermination hearing before an IJ. “It is well established . . . that the Immigration Judges only have the authority to consider matters that are delegated to them by the Attorney General and the [INA].” *Matter of A-W-*, 25 I&N Dec. 45, 46 (BIA 2009). “In the context of custody proceedings, an Immigration Judge’s authority to redetermine conditions of custody is set forth in 8 C.F.R. § 1236.1(d)” *Id.* at 46. The regulation clearly states that “the [IJ] is authorized to exercise the authority in [8 U.S.C. § 1226].” 8 C.F.R. § 1236.1(d); *see id.* § 1003.19(a) (authorizing IJs to review “[c]ustody and bond determinations made by [DHS] pursuant to 8 C.F.R. part 1236”); *see id.* § 1003.19(h)(2)(i)(B) (“[A]n IJ may not redetermine conditions of custody imposed by [DHS] with respect to . . . [a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to [8 U.S.C. § 1182(d)(5).]”). “An [IJ] is without authority to disregard the regulations, which have the force and effect of law.” *Matter of L-M-P-*, 27 I&N Dec. 265, 267 (BIA 2018).

Indeed, the Supreme Court explicitly stated that noncitizens seeking admission, like Petitioner, are subject to section 1225(b) detention: “In sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2).” *Id.* at 289. This was recently reiterated by the BIA in *Matter of Q. Li*, which held that for noncitizens “seeking admission into the United States who are placed directly in full removal proceedings, [8 U.S.C. § 1225(b)(2)(A)] . . . mandates detention ‘until removal proceedings have concluded.’” 29 I&N Dec. At 68 (quoting *Jennings*, 583 U.S. at 299).

Accordingly, Petitioner, as a noncitizen present without admission in section 1229a removal proceedings, is an applicant for admission and a noncitizen seeking admission. Thus, he is subject to mandatory detention under section 1225(b)(2)(A) and ineligible for a bond redetermination hearing before an IJ.

B. Petitioner’s Detention Does Not Violate Due Process

The Fifth Amendment entitles noncitizens to due process of law, but the Ninth Circuit interprets the Due Process Clause “consistent with longstanding precedent recognizing that the process due aliens must account for the government’s countervailing interests in immigration enforcement—considerations that do not apply to U.S. citizens.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th Cir. 2022). It is well-established that “Congress may make rules as to aliens that would be unacceptable if applied to citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003). This is true because “any policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign 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 (internal quotation marks and citation omitted).

Additionally, Petitioner’s detention is not indefinite. Unlike noncitizens detained under 8 U.S.C. § 1231(a)(6), where their detention could be “indefinite” and “potentially permanent,” those detained under section 1225(b) face a definite termination of their removal proceedings. *Demore v. Kim*, 538 U.S. 510, 528-29 (2003) (citing *Zadvydas v. Davis*, 533 U.S. 678, 697 (2001)); *Navarrete-Leiva*, 2024 WL 5111780, *4.

The use of a multi-factor balancing test to analyze Petitioner's statutorily-compelled detention during the pendency of his removal proceedings 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").

Thus, the Court should decline to engage in any of the various multi-factor balancing tests applied by some courts in the Ninth Circuit in analyzing a noncitizen's procedural due process rights. *See generally Abdul-Samed v. Warden of the Golden State Annex Detention Facility*, 1:25-cv-00098-SAB-HC, 2025 WL 2099343, at *5 (E.D. Cal. July 25, 2025). Such tests were rejected in *Keo v. Warden of the Mesa Verde Ice Processing Center*, No. 1:24-CV-00919-HBK (HC), 2025 WL 1029392, at *7 (E.D. Cal. Apr. 7, 2025), *appeal dismissed sub nom. Keo v. Warden*, 2025 WL 2528945 (9th Cir. June 27, 2025), when assessing a procedural due process claim by a petitioner held under mandatory detention pursuant to a different section of the INA, 8 U.S.C. § 1226(c). As the Court held in *Keo*, "consistent with existing Supreme Court precedent," the "threshold question" in considering Petitioner's claim of "unreasonably prolonged detention" without a bond hearing under Section 1226(c) was "whether Petitioner's continued detention serves the purported immigration purpose and has a definite termination point, as opposed to any 'balancing test' to determine whether procedural due process is due." *Id.* at *7.

Nevertheless, if the Court were to apply a multi-factor balancing test to Petitioner's detention without a bond hearing, the most common test would favor Respondents. The traditional test for assessing procedural due process claims set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), is a flexible test that must account for the heightened governmental interest in the immigration detention context. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, the "identification of the specific dictates of due process generally requires consideration of three distinct factors": 1) "the private interest that will be affected by the official action"; 2) "the risk of an erroneous

1 deprivation of such interest through the procedures used, and the probative value, if any, of additional or
2 substitute procedural safeguards”; and 3) “the Government’s interest, including the function involved
3 and the fiscal and administrative burdens that the additional or substitute procedural requirement would
4 entail.” 424 U.S. at 334-35.

5 a. The Private Interest

6 The first *Mathews* factor weighs in favor of Respondents. As the Supreme Court noted in
7 *Demore*, while decisions to prolong one’s own detention may be difficult, “the legal system . . . is
8 replete with situations requiring the making of difficult judgments as to which course to follow,” and
9 “even in the criminal context, there is no constitutional prohibition against requiring parties to make
10 such choices.” *Demore v. Kim*, 538 U.S. 510, 530 n. 14 (2003) (quoting *McGautha v. California*, 402 U.
11 S. 183, 213 (1971)). While a noncitizen’s private interest in “freedom from prolonged detention” is
12 “unquestionably substantial,” *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011), *abrogated on other*
13 *grounds as recognized by Rodriguez Diaz*, 53 F.4th at 1202, the same cannot be said for freedom from
14 all detention itself. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (stating that a noncitizen is
15 not entitled to habeas relief after the expiration of the presumptively reasonable six-month period of
16 detention under 8 U.S.C. § 1231(a)(6) unless he can show that his detention is “indefinite”—*i.e.*, that
17 there is “good reason to believe that there is no significant likelihood in the reasonably foreseeable
18 future”). Here, Petitioner’s detention is mandatory yet time-limited, in connection with his pursuit of
19 entry into the United States without valid entry documentation.

20 b. The Risk of Erroneous Deprivation

21 The second *Mathews* factor is “the risk of an erroneous deprivation of [the petitioner’s] interest
22 through the procedures used, and the probative value, if any, of additional or procedural safeguards.”
23 *Mathews*, 424 U.S. at 335. This factor does not favor Petitioner because the process of seeking relief
24 from removal, including based on asylum, is the statutorily-created structure for those in Petitioner’s
25 circumstances. Petitioner is availing himself of that statutory structure by pursuing his claim for asylum.
26 (ECF No. 1 at 7.) As with other noncitizens seeking relief, detention is mandatory under the applicable
27 statute while those proceedings proceed. The statute does not look to whether the noncitizen can
28 establish that, in their particular case, they are not a flight risk or a danger to the community.

c. The Government's Interest

Under the third *Mathews* factor, “the government clearly has a strong interest in preventing noncitizens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022) (quoting *Demore*, 538 U.S. at 518). Here, the Government in detention is therefore strong. “Enforcement of our immigration law serves both a domestic law enforcement and foreign relations function.” *Id.* “The Supreme Court has thus specifically instructed that in a *Mathews* analysis, we ‘must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature.’” *Id.* (quoting *Landon v. Placencia*, 459 U.S. 21, 34 (1982)). “Over no conceivable subject is the legislative power of Congress more complete.” *Id.* (citing *Reno v. Flores*, 507 U.S. 292, 305 (1993)). “Through detention, the government likewise seeks to ‘increas[e] the chance that, if ordered removed, the aliens will be successfully removed.’” *Id.* (quoting *Demore*, 538 U.S. at 528); *see also Nken v. Holder*, 556 U.S. 418, 436 (2009) (“There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable . . . permits and prolongs a continuing violation of United States law.”).

C. Petitioner Lacks Standing to Bring his Administrative Procedures Act Claim

Lastly, Petitioner does not have standing to bring his claim under the Administrative Procedures Act (“APA”). By the APA’s terms, the statute is available only for final agency action “for which there is no other adequate remedy in court.” 5 U.S.C. § 704. Thus, Petitioner’s APA claim is independently barred by this statutory limitation.

In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, “necessarily imply the invalidity of their confinement,” those claims “must be brought in habeas.” 145 S. Ct. 1003, 1005 (2025) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence, “given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.” *Id.* at 1007 (Kavanaugh, J. concurring). Here, as in *J.G.G.*, habeas is an “adequate remedy” through which Petitioner can challenge his detention. Even if Petitioner’s APA claim had merit, the result would be the same as in habeas—release from detention. The Supreme Court’s holding

1 is consistent with well-established law that habeas is generally the only possible district court vehicle for
2 challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229,
3 234-35 (1953)).

4 CONCLUSION

5 For the reasons set forth above, Respondents respectfully request that the Court deny the petition
6 for writ of *habeas corpus*.

7
8 Dated: December 29, 2025

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