

District Judge Kymberly K. Evanson
Magistrate Judge S. Kate Vaughan

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL HAILU MAMO,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02562-KKE-SKV

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
January 12, 2026

I. INTRODUCTION

Petitioner Michael Hailu Mamo has failed to demonstrate that his mandatory immigration detention pursuant to 8 U.S.C. § 1225(b) has become unjustifiably and unreasonabl[y] prolonged. U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Mamo, an Ethiopian national, while he undergoes removal proceedings before the Board of Immigration Appeals ("BIA").

Mamo is currently mandatorily detained by United States Immigration and Customs Enforcement ("ICE") as an arriving alien pursuant to 8 U.S.C. § 1225(b)(1). On June 8, 2025,

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 Petitioner arrived in the United States at SeaTac International Airport seeking admissions as a
2 B1/B2 visitor for pleasure. Declaration of Javier Delgado (“Delgado Decl.” at ¶4). A search of his
3 bag revealed documents that indicated that Petitioner likely intended to adjust status. *Id.* As a
4 result, Petitioner was placed in Expedited Removal with Credible Fear Proceedings. *Id.* at ¶5. On
5 October 6, 2025, an Immigration Judge granted Petitioner’s application for Asylum and on
6 November 5, 2025 the United States Department of Homeland Security (“DHS”) filed an appeal
7 with the Board of Immigration Appeals (“BIA”). *Id.* at ¶¶13-14. An applicant is not designated as
8 an asylee until an Immigration Judge’s order is final, and an order is not final if it is appealed to
9 the BIA. As a result, Petitioner is still mandatorily detained pursuant to 8 U.S.C. § 1225(b). *Id.* at
10 ¶5.

11 Accordingly, this Court should deny the Petition.

12 II. FACTUAL BACKGROUND

13 Mamo is a native and citizen of Ethiopia who was detained on June 8, 2025, upon arrival
14 at SeaTac International Airport. Delgado Decl., ¶ 4; Stahman Decl., Ex. B. Mamo entered seeking
15 admission as a B1/B2 visitor for pleasure, but secondary checks revealed that he had previously
16 entered the United States with his wife and, at that time, failed to disclose that the purpose of the
17 trip to the United States was for his wife to give birth. Delgado Decl., ¶ 4. A search of Mamo’s
18 baggage also revealed documentation typically used to adjust status, despite his claim to be visiting
19 for pleasure. *Id.* at ¶ 4. Upon inspection Petitioner claimed asylum due to being targeted by an
20  *Id.* Mamo was deemed inadmissible pursuant to Immigration and
21 Nationality Act (“INA”) § 212(a)(7)(A)(i)(I), 8 U.S.C. 1182(a)(7)(A)(i)(I), and was placed into
22 Expedited Removal with Credible Fear Proceedings that same day. *Id.* at ¶¶ 4-5.

23 On July 21, 2025, USCIS conducted Petitioner’s Credible Fear interview. Delgado Decl.
24 at ¶ 6. Mamo was issued a Notice to Appear (dated July 23, 2025) on August 5, 2025, charging

1 Petitioner as removable under the Immigration and Nationality Act (“INA”) INA §
2 212(a)(7)(A)(i)(I), 8 U.S.C. 1182(a)(7)(A)(i)(I), as amended, as an immigrant who, at the time of
3 application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit,
4 border crossing card, or other valid entry document required by the Act, and a valid unexpired
5 passport, or other suitable travel document, or document of identity and nationality as required
6 under the regulations issued by the Attorney General under section 211(a) of the Act. *Id.* at ¶ 7;
7 Stahman Decl., Ex. B. The NTA states: “This notice is being issued after an asylum officer has
8 found that the respondent has demonstrated a credible fear of persecution or torture.” Delgado
9 Decl., ¶ 7; Stahman Decl., Ex. B. Petitioner was personally served with the NTA on July 24, 2025,
10 and the NTA was filed with the Executive Office for Immigration Review (“EOIR”) that same
11 day. Delgado Decl., ¶ 8.

12 On August 4, 2025, Petitioner filed USCIS form I589, Application for Asylum and
13 Withholding of Removal, with EOIR. Delgado Decl., ¶ 9. On August 5, 2025, Petitioner appeared
14 in Tacoma Immigration Court, an Immigration Judge sustained the charge on the NTA, and
15 Ethiopia was designated as the country of removal. *Id.* at ¶ 10. An Individual Hearing was
16 scheduled for September 16, 2025, in Tacoma. *Id.*; Stahman Decl., Ex. E. On September 9, 2025,
17 Tacoma EOIR cancelled the Individual Hearing set for September 16, 2025 (Stahman Decl., Ex.
18 F), and it was re-scheduled for October 6, 2025. Delgado Decl., ¶¶ 11-12; Stahman Decl. at Ex. C.

19 Petitioner was granted asylum by an Immigration Judge on October 6, 2025. Delgado
20 Decl., ¶ 13; Stahman Decl. Ex. G. Mamo’s applications for Withholding of Removal were
21 withdrawn without prejudice. Delgado Decl., ¶ 13. Petitioner waived appeal and DHS reserved
22 appeal. *Id.* at ¶ 13. DHS appealed the Immigration Judge’s grant of asylum to the BIA on
23 November 5, 2025. *Id.* at ¶ 14; Stahman Decl. Ex. H. The BIA has not yet set a briefing schedule
24 and Petitioner has not requested a bond hearing. Delgado Decl., ¶¶ 15;17.

III. ARGUMENT

This Court should deny the Petition because Mamo has not shown that he is in ICE custody in violation of the Constitution, law, or treaties of the United States. 28 U.S.C. § 2241. Mamo is detained under 8 U.S.C. § 1225(b), which mandates detention of arriving aliens seeking admission to the United States. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 842 (2018). The Supreme Court in *Jennings* rejected the Ninth Circuit’s rule that mandatory detention becomes unconstitutional after a presumptive six-month period. Accordingly, individuals detained under Section 1225(b) are not entitled to an individualized bond hearing simply due to the passage of time. Instead, courts assess whether the detention has become unreasonably prolonged under due process balancing factors. *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019). Without analysis, Mamo claims that he is detained pursuant to 8 U.S.C. § 1226. Pet., ¶ 5. Mamo further claims that his continued detention is indefinite. Pet., ¶ 5. These claims lack merit.

A. Petitioner is detained pursuant to 8 U.S.C. § 1225(b).

Section 1225(b)(1) applies to “arriving aliens” and “certain other” noncitizens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(1) allows for the expedited removal of any noncitizen “described in” Section 1225(b)(1)(A)(iii)(II), as designated by the Attorney General or Secretary of Homeland Security – that is, any noncitizen not “admitted or paroled into the United States” and “physically present” fewer than two years – who is inadmissible under Section 1182(a)(7) at the time of “inspection.” *See* 8 U.S.C. § 1182(a)(7) (categorizing as inadmissible noncitizens without valid entry documents). Whether that happens at a port of entry or after illegal entry is not relevant; what matters is whether, when an officer inspects a noncitizen for admission under Section 1225(a)(3), that noncitizen lacks entry documents and so is subject to Section 1182(a)(7). The Attorney General’s or Secretary’s authority to “designate” classes of noncitizens

1 as subject to expedited removal is subject to his or her “sole and unreviewable discretion.” 8
2 U.S.C. § 1225(b)(1)(A)(iii); *see also American Immigration Lawyers Ass’n v. Reno*, 199 F.3d 1352
3 (D.C. Cir. 2000) (upholding the expedited removal statute).

4 The Secretary (and earlier, the Attorney General) has designated categories of noncitizens
5 for expedited removal under Section 1225(b)(1)(A)(iii) on five occasions; most recently, restoring
6 the expedited removal scope to “the fullest extent authorized by Congress.” *Designating Aliens for*
7 *Expedited Removal*, 90 Fed. Reg. 8139 (Jan. 24, 2025). The notice thus enables DHS “to place in
8 expedited removal, with limited exceptions, aliens determined to be inadmissible under [8 U.S.C.
9 § 1182(a)(6)(C) or (a)(7)] who have not been admitted or paroled into the United States and who
10 have not affirmatively shown, to the satisfaction of an immigration officer, that they have been
11 physically present in the United States continuously for the two-year period immediately preceding
12 the date of the determination of inadmissibility,” who were not otherwise covered by prior
13 designations. *Id.*, at 8139-40.

14 Expedited removal proceedings under Section 1225(b)(1) include additional procedures if
15 a noncitizen indicates an intention to apply for asylum² or expresses a fear of persecution, torture,
16 or return to the noncitizen’s country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). If
17 the asylum officer or immigration judge does not find a credible fear, the noncitizen is “removed
18 from the United States without further hearing or review.” 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I),
19 (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum
20 officer or immigration judge finds a credible fear, the noncitizen is generally placed in full removal
21 proceedings under 8 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8 C.F.R. §
22 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

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24 ² Noncitizens must apply for asylum within one year of arriving in the United States, 8 U.S.C. § 1558(a)(2)(B), except
if the noncitizen can demonstrate “extraordinary circumstances” that justify moving that deadline. *Id.*
§ 1558(a)(2)(D).

1 It is unclear why Mamo takes the position that he is detained pursuant to 8 U.S.C. § 1226.
2 Petition at ¶ 25, Dkt. No. 1. Mamo was an arriving alien when he sought admission to the United
3 States when he arrived at SeaTac International Airport seeking admission to the United States.
4 Thus, Mamo's detention remains statutorily mandated for the duration of his removal proceedings.
5 8 U.S.C. § 1225(b)(2)(A). Mamo's assertion is incorrect.

6 **B. The *Banda* Factors**

7 The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on
8 the length of detention and whether such noncitizens detained under this statutory authority have
9 a statutory right to a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 297-303 (2018). The
10 Court rejected both arguments, holding that Section 1225(b) mandates detention during the
11 pendency of removal proceedings and provides no entitlement to a bond hearing. *See id.*, at 303
12 (“Nothing in the statutory text imposes any limit on the length of detention.”). The Court further
13 clarified that Section 1225(b) detainees may be released only through discretionary parole under
14 8 U.S.C. § 1182(d)(5). *Id.*, at 300. While *Jennings* forecloses any statutory or categorical
15 constitutional right to a bond hearing under Section 1225(b), it did not reach the issue of whether
16 prolonged detention without such a hearing could, in individual cases, raise a due process concern.

17 Mamo's continued detention without a court-ordered bond hearing does not violate his
18 Fifth Amendment due process rights. Courts in this District analyze this issue using a multi-factor
19 test. *See Banda*, 385 F. Supp. 3d at 1116. In *Banda*, the district court found that the petitioner's
20 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had become unreasonable. *Id.*, at
21 1117-121. To conduct this analysis, the court analyzed six factors: (1) length of detention; (2) how
22 long detention is likely to continue absent judicial intervention; (3) conditions of detention; (4) the
23 nature and extent of any delays in the removal caused by the petitioner; (5) the nature and extent
24 of any delays caused by the government; and (6) the likelihood that the final proceedings will

1 culminate in a final order of removal. *See id.* An analysis of these factors demonstrates that
2 Mamo's detention, while prolonged, has not become unreasonable.

3 First, the length of Mamo's detention is seven months. Federal Respondents note that the
4 current length of his detention has not reached the length of what many courts have found to be
5 unreasonable. *See Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at *5 (W.D. Wash.
6 June 8, 2021), *report and recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11,
7 2022) (collecting cases finding prolonged detention from 13 months to 32 months without a court-
8 ordered bond hearing to have become unreasonable). This factor favors the government.

9 Second, with respect to the length of Mamo's future detention, his detention will end at the
10 conclusion of his asylum litigation. However, currently any conclusions regarding his future
11 detention are speculative.

12 As for the third *Banda* factor, Mamo is detained at the NWIPC.

13 The fourth *Banda* factor assesses delays caused by the petitioner. There is no evidence that
14 the petitioner has caused any delays in his proceedings.

15 The fifth *Banda* factor, delays in the removal proceedings caused by the government.
16 There is no evidence that the government has delayed Mamo's proceedings, so this counsels in
17 favor of the government.

18 The last *Banda* factor considers if removal proceedings will result in a final order of
19 removal. Given that litigation is ongoing, this factor is speculative.

20 CONCLUSION

21 For the foregoing reasons, Federal Respondents respectfully requests that this Court deny
22 the Petition.

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1 DATED this 5th day of January, 2026.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 2,017*
17 *words, in compliance with the Local Civil Rules.*