

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Civil No. 26-cv-2336-JWB-SGE

Jose C.M.J.,

Petitioner,

**RESPONDENTS' RESPONSE TO  
PETITION FOR WRIT OF  
HABEAS CORPUS**

v.

Blanche, Todd, *et al.*,

Respondents.

Petitioner filed this petition for a writ of habeas corpus seeking immediate release from custody. Pet. ¶ 92. Respondents submit this response to the petition. The Court should deny Petitioner's request for habeas relief because he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and he had received legally sufficient process due to him. All claims not directly raised hereunder are denied.

**BACKGROUND**

Petitioner, a citizen and native of Guatemala, entered the United States without admission or inspection by an Immigration Officer, and currently lacks permanent legal status. Balencia Decl. ¶ 4. The Department of Homeland Security (Agency) encountered Petitioner on or about October 14, 2021, at a time and place other a designated port of entry. Balencia Decl. ¶ 5. United States Border Patrol (USBP) at or near El Paso, Texas determined that Petitioner was inadmissible pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(a)(6)(A)(i). Balencia Decl. ¶ 6.

The Agency pursued removal proceedings. Balencia Decl. ¶ 7. On November 2, 2021, Petitioner was released on Order of Recognizance. Balencia Decl. ¶ 7.

On May 23, 2022, Petitioner filed an Application for Asylum and for Withholding of Removal, which remains pending. Balencia Decl. ¶ 8. On June 10, 2022, an Immigration Judge ordered Petitioner's case to be administratively closed on the basis that the moving party requested administrative closure and the non-moving party did not meet their burden of persuasion. Balencia Decl. ¶ 9. On September 26, 2022, Petitioner filed a Petition for Amerasian, Widow(er), or Special Immigrant with USCIS (Form I-360) and was approved on April 11, 2023. Balencia Decl. ¶ 10. On May 12, 2023, Petitioner filed an Employment Authorization Document with USCIS (Form I-765) and was approved on June 15, 2023, until June 14, 2025. Balencia Decl. ¶ 11. On July 11, 2023, an Immigration Judge granted a motion to dismiss proceedings. Balencia Decl. ¶ 12. On February 4, 2025, Petitioner submitted an Application for Employment Authorization (Form I-765) and was approved on September 11, 2025, until September 4, 2030. Balencia Decl. ¶ 13.

On April 11, 2026, Petitioner was arrested by the St. Paul Police Department and charged with Domestic Assault-Misdemeanor-Intentionally Inflicts/Attempts to Inflict Bodily Harm on Another (Minn. Stat. § 609.2242.1(2)) and Damage to Property in the Fourth Degree-Intentional Damage-Other Circumstances (Minn. Stat. § 609.595.3). Balencia Decl. § 14. Both charges are currently pending disposition with the Ramsey County District Court. *Id.*

The same day of Petitioner's arrest, the Agency received an Immigration Alien Response from the U.S. Immigration and Customs Enforcement (ICE), Law Enforcement

Support Center. Balencia Decl. ¶ 15. Upon review, the Agency determined the Petitioner was subject to ICE enforcement action. *Id.* An ICE Immigration Detainer (Form I-247A) was lodged. *Id.*

On April 13, 2026, Petitioner was released from the Ramsey County Jail and turned over to the Agency for further processing and detention. Balencia Decl. ¶ 16. Processing of Petitioner determined to the Agency's suitability that Petitioner was inadmissible. *Id.* On April 23, 2026, Petitioner was issued and served Form I-862, reinitiating removal proceedings before an Immigration Judge. Balencia Decl. ¶ 18. The Agency anticipates a Significant Likelihood of Removal in the Reasonable . Balencia Decl. ¶ 19. Petitioner is currently being held at the Freeborn County Jail pending disposition of his removal proceedings. Balencia Decl. ¶ 20.

## ARGUMENT

### I. Mandatory Detention under § 1225

Petitioner seeks an order from this Court directing the Agency to immediately release Petitioner from immigration detention. Pet. ¶ 92. This outcome would not be appropriate and the Court should deny the petition. Petitioner is not attacking the statutory authority to initiate detention. Nor can he following the Eighth Circuit's decision in *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026), holding that § 1225(b)(2) authorizes mandatory detention for non-citizens in Petitioner's situation during the pendency of their removal proceedings.

The Court should uphold Petitioner's mandatory detention under § 1225(b)(2). Petitioner is a noncitizen present in the United States who entered without inspection. Thus,

he is “deemed” to be an “applicant for admission” under § 1225(a)(1). Pursuant to the statute’s “catchall provision”—paragraph (b)(2)—a noncitizen like Petitioner who is deemed an applicant for admission and who is not subject to paragraph (b)(1) must be detained during removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Petitioner falls within the terms of § 1225(b)(2)(A); and is an “applicant for admission” who failed to show that he was “clearly and beyond a doubt entitled to be admitted.” The federal statute charges immigration officers with making those determinations which they made here. (Form I-200). Any requirement that the Petitioner receive a bond hearing is unavailing under federal statute.

## **II. Petitioner’s Substantive Due Process Challenge Fails Regarding Mandatory Detention under § 1225**

Petitioner’s Fifth Amendment substantive due process rights have not been violated. Mandatory detention under § 1225(b)(2)(A) is statutorily authorized, constitutionally valid, and consistent with controlling precedent. As an unadmitted alien, Petitioner’s liberty interest is defined by statute and limited by long-established immigration law, and his detention is narrowly tailored to ensure appearance at removal proceedings rather than arbitrary or indefinite confinement.

The Fifth Amendment guarantees that no person shall be “deprived of life, liberty, or property, without due process of law,” but the extent of these protections varies with a noncitizen’s status and circumstance. The Supreme Court has explained that an alien seeking initial admission has “only those rights regarding admission that Congress has provided by statute,” and historical precedent treats an alien at the threshold of entry as

entitled to only statutory process. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020) (an alien who has “not effected an entry” has limited due process rights); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212–15 (1953); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542–44 (1950). Section 1225(b)(2)(A) reflects Congress’s determination that applicants for admission may be detained pending removal without bond. Pre-removal detention is civil, limited in scope to facilitating removal proceedings, and nonpunitive; *Gutierrez-Soto v. Sessions*, 317 F. Supp. 3d 917 (N.D. Cal. 2018), confirms that mandatory pre-removal detention of unadmitted aliens is statutorily and constitutionally valid and that procedural safeguards—including habeas review and, where applicable, bond redeterminations—mitigate potential liberty concerns.

Petitioner entered the United States without inspection and has never been lawfully admitted. Petitioner had a prior grant of parole, which expired. ECF No. 7-3. As confirmed in *Avila*, he is an “applicant for admission” under § 1225(a)(1), and the examining officer has determined he is not clearly entitled to admission, triggering mandatory detention. ECF No. 7-1. Continued interior presence does not alter that status. The Supreme Court has repeatedly recognized the constitutionality—and necessity—of detention during deportation proceedings: “detention during deportation proceedings is a constitutionally valid aspect of the deportation process,” and “deportation proceedings would be vain if those accused could not be held in custody pending the inquiry.” *Demore v. Kim*, 538 U.S. 510, 523 (2003); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

The Court should not grant habeas relief on Fifth Amendment substantive due process grounds. Detention under § 1225(b)(2)(A) is required by statute, purpose-driven,

finite in duration, and supported by Supreme Court, circuit, and administrative precedent. No authority holds that an unadmitted alien's mere physical presence generates a broader liberty entitlement that would render mandatory detention arbitrary or unconstitutional under the Fifth Amendment.

### **III. Petitioner is Not Entitled to Procedural Due Process Protections Regarding Pre-Removal Detention under § 1225**

Petitioner's request for release from custody fails as a matter of law. Section 1225(b)(2)(A) imposes mandatory detention for all applicants for admission who cannot show they are "clearly and beyond a doubt entitled to be admitted," and this statutory command **precludes discretionary release or bond determinations**. Petitioner is asking for the Court to practice more discretion than what Congress intended. *Avila*, 2026 WL 819258; *Buenrostro-Mendez*, 166 F.4th 494; *Hurtado*, 29 I. & N. Dec. 216. By following the statute as written, Petitioner is not being detained absent due process.

The balancing test described in *Mathews v. Eldridge*, 424 U.S. 319 (1976), likewise does not apply. *Mathews* addresses procedures required to adjudicate facts that a statute or entitlement makes relevant. Contrary to the Petitioner's indication, Petitioner has been placed in removal proceedings and his deferred action, which was always discretionary, was revoked. Pet. ¶ 99; Balencia Decl. ¶ 18; Termination Notice. He is not in legal limbo, he is removal proceedings and § 1225(b)(2)(A) only requires a finding by the Immigration Officer that he is not entitled to admission to the United States upon inspection, which was done. Balencia Decl. ¶ 17. Because there exists a Significant Likelihood of Removal in the Reasonably Foreseeable Future, the Agency is within its statutory and constitutional

mandate to have detention continue without the risk that it the duration of detention be prolonged indefinitely. Balencia Decl. ¶ 19. Applying *Mathews* here would improperly substitute judicial discretion for Congress's substantive policy judgment that all applicants for admission are to be detained regardless of flight risk or dangerousness.

Moreover, longstanding Supreme Court precedent confirms that Congress has plenary authority over admission and detention of aliens. *Nishimura Ekiu v. United States*, 142 U.S. 651, 659 (1892), established that judicial review is limited to ensuring immigration officials act within statutory authority and may not create additional procedural requirements. *Landon v. Plasencia*, 459 U.S. 21 (1982), reaffirmed that aliens physically present in the United States have limited protections but that such protections do not override Congress's statutory detention authority. Consistent with these holdings, pre-removal detention under § 1225(b)(2)(A) is constitutionally valid.

Lastly, the Eighth Circuit's recent *Banyee* decision underscores that the Fifth Amendment does not undermine mandatory detention provisions within the Immigration and Nationality Act. "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). Although *Banyee* and *Demore* analyzed detention under § 1226(c), there is no constitutionally significant difference between the detention provisions in that statute 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*).

The Eighth Circuit and Supreme Court have already rejected Due Process challenges to mandatory detention under that statute. Eighth Circuit and Supreme Court precedent says 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).

Petitioner does 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 may disagree 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.

**IV. The Agency did not violate the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A)**

The same factual dispute that gives rise to Petitioner’s due process argument can dispose of Count Two. The Agency revoked Petitioner’s deferred action. *See* Termination Notice. While the Agency did dismiss removal proceedings, removal proceedings have since been reinitiated after the revocation of deferred action. Balencia Decl. ¶ 18. The same argument that disposes Petitioner’s due process challenge also disposes of Count Two of the Petition because both rely on a misstatement of fact and mischaracterize deferred action as anything more than an act of discretion by the Agency. The same discretion that allowed the Agency to place Petitioner in deferred action status is the same discretion that can allow

the Agency to revoke deferred action, which it legally has. Therefore, detention does not violate § 706(2)(A).

#### **V. Evidentiary Hearing**

Respondents believe the Court can rule on this petition without holding an evidentiary hearing. The facts are not likely to be disputed, and the only issues before the Court are ones of legal interpretation capable of resolution on the parties' submissions.

#### **VI. Whipple Injunction**

Petitioner is detained at Freeborn County Jail, Minnesota for the entire duration of his detention. Balencia Decl. ¶ 20. Petitioner has not spent any time at the Bishop Henry Whipple Federal Building (Whipple Building), which was the subject of this Court's injunction on March 26, 2026. The scope of the injunction describes, "[d]efendants shall ensure that every noncitizen taken into custody under the Immigration and Nationality Act and detained at the ERO Holding Facility at the Bishop Henry Whipple Federal Building located at 1 Federal Drive, Fort Snelling, Minnesota..." *The Advocates for Human Rights v. U.S. Dep't of Homeland Sec'y*, Civ. No. 26-749, Doc. No. 178 (emphasis added). Despite this, the Respondents acknowledge the importance of making additional efforts to provide more documentation where possible. The Respondents anticipate completion, where applicable, and submission of the Whipple Compliance Form to notify the Court of efforts to bring this non-applicable case into compliance with the referenced injunction as if the Petitioner were detained at the Whipple Building.

#### **ADDITIONAL REQUEST**

The Respondents acknowledge the importance of complying with any order this Court might issue regarding Petitioner's release. The U.S. Attorney's Office has been advised that U.S. Immigration and Customs Enforcement is devoting additional resources to the agency's inquiry email account for the St. Paul Field Office—both in terms of monitoring and responding to inquiries, and in terms of resolving release-related issues that detainees or their attorneys raise via messages to the address. The email address is StPaul.Outreach@ice.dhs.gov, and the Federal Respondents respectfully request that any order requiring Petitioner's release include a direction that questions about release logistics, detainee property, or conditions of release be sent to that email address in the first instance. This approach will lead to the fastest and most efficient resolution of any such issues.

### **CONCLUSION**

Respondents respectfully request that the Petition be denied in full.

**[SIGNATURE PAGE FOLLOWS]**

Dated: April 27, 2026

DANIEL N. ROSEN  
United States Attorney

/s/ Pedro del Valle

PEDRO DEL VALLE  
Special Assistant United States Attorney  
Attorney ID Number FL 1060036  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5600  
pedro.del.valle@usdoj.gov