

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-02452-ECT-DJF

Hernan Antonio M.C.,

Petitioner,

v.

Todd Blanche, et al.,

Respondents.

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

Petitioner filed this petition for a writ of habeas corpus seeking immediate release from custody. Federal Respondents¹ submit this response to Petitioner's habeas petition. Any facts that are not specifically admitted herein are denied. The Court should deny Petitioner's request for habeas relief.

Petitioner argues that his detention is misclassified as a noncitizen seeking admission under § 1225 rather than under § 1226. *See generally* Pet. ¶¶ 7-9. But that issue has now been resolved by the Eighth Circuit in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). Binding precedent compels the conclusion that Petitioner is subject to mandatory detention under § 1225 because he is an applicant for admission and not clearly entitled to be admitted. The Court should therefore deny this petition in its entirety.

BACKGROUND

Petitioner filed this action, seeking relief under 28 U.S.C. § 2241. Dkt. 1. Petitioner is a native and citizen of El Salvador that entered the United States without inspection in

¹ This response is not being submitted on behalf of any state or local entity.

August 2012. Ex. A. In 2024 Petitioner filed Form I-918, U-Visa application, and received bona fide deferred action on May 20, 2024. Pet. ¶ 3. Additionally, the Petitioner has a pending Form I-192, Application for Advance Permission to Enter as Nonimmigrant application. Ex. A, page 3. Petitioner was detained by ICE officers because of his recent criminal arrest for domestic violence. Pet. ¶ 4. ICE served Petitioner with a Notice to Appear stating the allegations for his arrest and charges of removability. Ex. B. Petitioner remains in ICE Custody at the Sherburne County Jail in Minnesota.

ARGUMENT

I. *Mandatory Detention under 8 U.S.C. § 1225*

All grounds for habeas relief in this case are foreclosed by *Avila*. For example, Count One alleges a Due Process violation premised on the assertion that he should subject to detention *only* under § 1226. Pet. ¶¶ 9, 94. That is wrong. As *Avila* explains “even if previous administrations did not exercise their full authority under § 1225, the authority granted by Congress cannot evaporate through lack of administrative exercise, as the mere failure of an administrative agency to act is in no sense a binding administrative interpretation that the Government lacks the authority to act.” *Avila*, 170 F.4th at 1137 (cleaned up) “the fact that prior Administrations decided to use less than their full enforcement authority under § 1125(b)(2)(A) does not mean the lacked the authority to do more.” *Avila v. Bondi*, 170 F.4th 1128, at *1137 (8th Cir. 2026). Individuals detained under § 1225 are not entitled to bond hearings because their detention is mandatory. *Avila*, 170 F.4th at 1136. Count One alleges that Petitioner’s ongoing detention violates § 1226’s implementing regulations, Pet. ¶ 103, which is irrelevant because he is detained under §

1225. In Count Two, Petitioner claims the BIA's decision in *Hurtado* is arbitrary and contrary to law. Pet. ¶ 107. But the Eighth Circuit says otherwise; *Avila* upheld the same interpretation of § 1225 and § 1226 that the BIA endorsed in *Hurtado*. *Id.* In short, Petitioner is wrong that he is being unlawfully detained under § 1225. The Court should deny all his claims for habeas relief.

II. No Violation of Due Process Rights

Petitioner's arguments in this case are statutory. But even if he was raising constitutional due process claims, those should likewise be denied. The petition regularly invokes the phrase "due process" without saying whether Petitioner thinks his detention violates substantive due process or procedural due process. No matter—neither class of due process rights is implicated in this case. Petitioner is not challenging the *procedures* available under the statute, but Congress's *substantive* determination that aliens covered by § 1225(b)(2)(A) are not entitled to a bond hearing. Petitioner's arguments therefore align most closely with a *substantive* due process claim arguing that the government cannot constitutionally detain aliens in Petitioner's situation *notwithstanding* the fact that they are subject to mandatory detention by statute. But Petitioner has not attempted to satisfy the standard for a substantive due process claim. Petitioner does not purport to identify any fundamental right, so his substantive due process claim must fail so long as mandatory detention under § 1225(b)(2)(A) is "rationally related to legitimate government interests." *Washington v. Glucksberg*, 521 U.S. 702, 728 (1997). The Supreme Court has long "recognized [that] detention during deportation proceedings [i]s a constitutionally

valid aspect of the deportation process,” because “deportation proceedings ‘would be vain if those accused could not be held in custody pending the inquiry into their true character.’”

Demore v. Kim, 538 U.S. 510 (2003).

A procedural due process claim would not work either. The Constitution prohibits the federal government and States from “depriv[ing]” a “person” of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. The Supreme Court has recognized two types of due-process claims. *See Dep’t of State v. Muñoz*, 602 U.S. 899, 910 (2024). A procedural-due-process claim takes as given the substantive determinations that would justify a deprivation of life, liberty, or property, but challenges the “adequacy of the[] procedures” for making those determinations. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

For example, the statute in *Mathews* made the availability of disability benefits turn on whether a person is “completely disabled” within the meaning of the statute. *Id.* At 323, 336. The procedural due process claim did not challenge the statute’s substantive criteria for who may receive benefits, but the adequacy of the procedures available to test whether a person fits within the criteria. *Id.* At 325-26. By contrast, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation “at all, no matter what process is provided.” *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Petitioner has not challenged the adequacy of the procedures for determining whether Petitioner is an “applicant for admission,” a matter determined in immigration proceedings, and that subjects Petitioner to mandatory detention under § 1225(b)(2)(A).

Instead, Petitioner argues that the determination that Petitioner is an applicant for admission and “not clearly and beyond a doubt entitled to be admitted,” 8 U.S.C. § 1225(b)(2)(A), is a constitutionally insufficient basis on which to justify the deprivation of liberty. Petitioner’s due process argument is substantive, not procedural, in nature.

Petitioner has requested that this Court find that due process requires additional procedures in the form of a bond hearing. But bond hearing is merely the vehicle for making substantive determination about flight risk or dangerousness. Those factors are irrelevant under the statute. Section 1225(b)(2)(A) requires mandatory detention and does not require such determinations.

Congress decided as a substantive policy matter to impose mandatory detention on all applicants for admission, such as Petitioner. Whether Petitioner is a flight risk or danger is irrelevant under that policy choice. Due process does not require procedures to adjudicate immaterial facts. What Petitioner is asking this Court to do is override Congress’s substantive judgment that all applicants for admission must be detained regardless of whether they are dangerous or flight risks. Procedural due process can do no such thing.

Accordingly, Petitioner has no procedural due process right to a bond hearing on flight risk or danger to the community. Individualized findings about flight risk and danger are irrelevant to § 1225(b)(2), which subjects Petitioner to mandatory detention based on Petitioner’s uncontested status as an “applicant for admission” who has not shown he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(a)(1), (b)(2)(A).

The Supreme Court’s decision in *Connecticut Dep’t of Pub. Safety*, is illustrative on this point. The statute in that case required sex offenders to register with the State so

their information could be published on a sex-offender registry. 538 U.S. at 4-5. John Doe, who had previously been convicted of a sex offense, claimed that the statute violated his procedural-due-process rights by requiring him to register without a “hearing to determine whether” he was “currently dangerous.” *Id.* At 4 (citation omitted)

But the Court concluded that no additional process is needed to resolve an uncontested issue of fact. As the Court held, “Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme.” *Id.* At 9. Here, whether Petitioner is a flight risk or a danger is irrelevant to the statutory scheme; thus, a bond hearing to assess those issues would be “a bootless exercise.” *Id.* At 7. In the end, the only process due for those who have never “been admitted into the country pursuant to law” is whatever process is “expressly conferred by Congress.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 138 (2020).

The supreme Court has elsewhere made clear that *lawful admission*—not physical entry—is the touchstone for when aliens gain due process interests that could potentially require procedures beyond what Congress has provided (and thus all that the due process clause requires under the entry fiction doctrine). For example, in *Landon v. Plasencia*, 459 U.S. 21 (1982), the Court observed that only “*once an alien gains admission* to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[.]” *Id.* At 32 (emphasis added). “Th[is] rule,” the Court explained, “rests on [the] fundamental proposition” that “the power to admit or exclude aliens is a sovereign

prerogative,” and “the Constitution gives the political department of the government plenary authority to decide which aliens to admit.” *Id.* At 32.

Those conclusions put Petitioner’s due process claims in this case on shaky ground, because he is essentially challenging the constitutionality of § 1225(b)’s mandatory detention provisions. “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). But there is no constitutionally significant difference between the detention provisions in § 1226(c) 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*). Noncitizens detained under § 1226(c) do not receive bond hearings either. Yet 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 disagrees 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.

The same result should follow here. Petitioner's entry and presence in the United States has been unlawful. The moment of entry into the United States constituted a criminal act under 8 U.S.C. § 1325(a). And Petitioner's presence from that moment forward stands in open defiance of federal immigration law. Any change to detention status in this situation is ultimately an issue for Congress to address.

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.

CONCLUSION

This Court should follow the Eighth Circuit's reasoning in *Avila* and the Supreme Court's longstanding precedent regarding the due process rights of aliens who were never admitted to this country. Respondents respectfully request that the Court deny this petition.

[SIGNATURE ON NEXT PAGE]

Dated: May 18, 2026

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