UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-02486-PJS-DTS

Jesus Eliseo Flores Duran,

Petitioner,

v.

Blanche *et al.*,[1]

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 Respondents[2] 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 is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This conclusion is appropriate under long standing Supreme Court precedent and recent Eighth Circuit precedent. The Eighth Circuit Court of Appeals recently held that the Petitioner, who entered the United States illegally and who are not "clearly and beyond a doubt entitled to be admitted," "shall be detained" under 8 U.S.C. § 1225(b)(2)(A), until the

[1] Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Todd Blanche, the current Acting Attorney General of the United States, is automatically substituted as a defendant in this action in his official capacity, replacing former Attorney General Pamela Bondi.
[2] This response is not being submitted on behalf of any state or local entity.

conclusion of their removal proceedings. *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). The *Avila* decision is binding precedent and requires that the Court deny this habeas petition. The Fifth Circuit also decided consistent with *Avila* in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026).

BACKGROUND

Respondents do not dispute the salient facts alleged in the Petition. Petitioner, a citizen and native of El Salvador, entered the United States on or about September 3, 2018, without inspection and was encountered by U.S. Border Patrol Agents on or about Hidalgo, Texas. Petitioner was served a Notice to Appear. *See Declaration of Ivan Sabin.* Petitioner had a pending an asylum application with USCIS, but the application was dismissed by Immigration Judge on December 4, 2024.

On or about April 11, 2026, the Lakeville Police Department arrested the Petitioner for driving while impaired. On April 14, 2026, upon release from the Dakota County Jail, Petitioner was served with a Warrant of Arrest (I-200) and placed Petitioner under arrest without incident. *See Sabin Declaration.*

Petitioner is filing an asylum as class member of *J.O.P.* Settlement Pet. ¶39 and is currently being held in ICE custody at Freeborn County Detention Center. *See Sabin Declaration.* The Agency made a request to USCIS to expedite the asylum application as contemplated in the *J.O.P. v. DHS settlement agreement, Section III. G.* [3] *See Declaration of Christopher A. Campbell.*

[3] Once that application is reviewed, the Government will be prepared to provide the Court with appropriate documentation upon request, once it is received.

ARGUMENT

I. Petitioner's changed circumstances terminated his UAC classification, and any associated TVPRA Protections

The TVPRA statutory scheme established by Congress makes no suggestion that DHS must continue treating former UACs differently from other adult aliens. *See* 8 U.S.C. § 1232 and 8 C.F.R. § 236.3. There is no dispute that Petitioner was entitled to the protections of the TVPRA when CBP first encountered him in the United States. However, those protections apply only so long as the circumstances supporting the original UAC classification remain in place. *R.A.R.R. v. Almodovar*, No. 0:26-cv-06597-PKC (N.Y.E.D Feb. 6, 2026) (quoting *Lopez*, 2018 U.S. Dist. Lexis 98712 at *12).

Here, the circumstances surrounding Petitioner's original release have materially changed. Petitioner is now 22 years old. Pet. ¶ 12. Accordingly, Petitioner no longer qualifies as an unaccompanied alien child under the governing statutory and regulatory framework. Federal regulations provide that UAC classification terminates when an individual reaches the age of 18 or when a parent or legal guardian in the United States becomes available to provide care and physical custody. 8 C.F.R. § 236.3(d)(2). Once Petitioner's UAC classification terminated, he was no longer eligible for protections limited to UACs under the relevant provisions of the INA. Id.

Although limited circumstances may permit a nonminor to continue invoking certain UAC-related protections, those circumstances do not alter DHS's detention authority here. For example, such circumstances may include: (1) asylum filings covered under the *J.O.P. v. DHS* settlement agreement, see Pet. ¶ 39; or (2) adjustment applications based on approved SIJS petitions. But those limited procedural protections do not extend UAC classification indefinitely or otherwise restrict DHS custody authority after an individual ceases to qualify as a UAC.

In addition, an SIJ beneficiary's classification may be revoked under the circumstances identified in 8 C.F.R. § 204.11(j)(1), or otherwise revoked by USCIS for "good and sufficient cause" pursuant to 8 C.F.R. § 205.2. *See Cobo v. Crawford*, No. 1:26-cv-00674, ECF No. 5, at 2 (E.D. Va. Mar. 10, 2026).

Petitioner also does not currently possess deferred action status. This Court lacks jurisdiction to review discretionary determinations relating to the commencement or adjudication of removal proceedings. See 8 U.S.C. §§ 1252(g), 1252(b)(9); *Cobo*, ECF No. 5, at 2.

Nevertheless, the agency has requested expedited processing of Petitioner's asylum application pursuant to Section III.G of the *J.O.P. v. DHS* settlement agreement. That request does not restore Petitioner's prior UAC classification but instead concerns the processing of the pending asylum application. *See Campbell Declaration.*

II. No Violation of Due Process Rights

Petitioner's due-process arguments in this case should likewise be denied. In truth, 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 true claim sounds in *substantive* due process, i.e., 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 addressed a similar situation in *Demore v. Kim*, 538 U.S. 510 (2003), and concluded that mandatory detention pending removal proceedings does not violate an alien's due process rights. The Demore detainee argued that since deportation proceedings are indefinite, his indefinite detention violates the Due Process Clause. *Id.* However, the Court rejected that premise, holding "detention under Section 1226(c) has a definitive end-point—the end of the removal proceedings—and thus a noncitizen is not subject to indefinite detention." *Id.* at 529. While *Demore* analyzed detention under Section 1226(c), the detention provisions in Section 1226(c) are analogous to the provisions in Section 1225(b). *See Rodriguez v. Jeffreys*, Case No. 8:25-cv-714, 2025 WL 3754411, at *16 (D. Neb. Dec. 29, 2025). Thus, Petitioner's due process claim "must fail [and] [d]etention during removal proceedings is a constitutionally permissible part of the process." *Demore*, 538 U.S. at 531.

Recognizing the claim is foreclosed, Petitioner raises procedural due process. 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 a bond hearing is merely the vehicle for making a 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 has repeatedly distinguished between noncitizens who have been lawfully admitted and those who have not. Most recently, the Court reaffirmed that, although some aliens who have established connections in this country may possess due process rights in removal proceedings, "an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *Dep't of Homeland Security v. Thuraissigiam,* 591 U.S. 103, 137 (2020). And because an alien apprehended after unlawful entry remains in that non-admitted status for these purposes, such a person possesses only those rights Congress has provided by statute. *Id.* at 137–40. The statute at issue here is § 1225(b), and the rights afforded under that statute do not include freedom from mandatory detention during removal proceedings. Petitioner therefore cannot define his claimed liberty interest as though he were a lawfully admitted alien challenging restrictions on an already-secured status.

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.*

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*, 538 U.S. at 523. 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's Due Process claims in this case fail as a matter of law, and his habeas petition should therefore be denied.

A burden-allocation rule drawn from discretionary bond proceedings under § 1226(a) cannot be imported into § 1225, where Congress mandated detention and the Supreme Court has already rejected reading additional procedures into the statute. *See Jennings*, 583 U.S. at 299, 303. Petitioner therefore cannot establish a procedural due process violation by invoking *Mathews* or by analogizing to § 1226(a) cases arising in a materially different statutory setting.

The Court should not reach a different result if it is inclined to re-run the Supreme Court's analysis. *Mathews* requires the Court to consider: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. Here, all three factors weigh against finding a Due Process violation.

First, Petitioner is not in the United States with lawful status. Petitioner may still have an interest to remain in the United States, but his interest is defined by statute. *See Thuraissigiam*, 591 U.S. at 107.

Second, the risk of erroneous deprivation is low. Mandatory detention under § 1225(b)(2)(A) is triggered by clear statutory criteria: the alien is present without admission and is not clearly entitled to admission. Procedural safeguards, including habeas review under 28 U.S.C. § 2241 further reduce any residual risk. *Demore*, 538 U.S. at 523; *Gutierrez-Soto v. Sessions*, 317 F. Supp. 3d at 924-25. Judicial review is limited to ensuring statutory compliance and does not require additional procedural steps. *United States v. Nishimura Ekiu*, 142 U.S. 651 (1892) at 659.

Third, the government's strongest interest in detaining someone pending their removal proceedings is to make sure that the person appears for immigration proceedings and to ensure we are complying with how Congress set up this aspect of immigration law. Petitioner presents with two charges for operating a motor vehicle under the influence, and this Court should be able to consider those two charges when undertaking the *Mathews* test as it goes to the third prong. Prior drunk driving enhances the government's interest in this Petitioner remaining in detention, although prior drunk driving is unnecessary to trigger mandatory detention under the statute.

III. Mandatory Detention Under 8 U.S.C. § 1225

Petitioner seeks an order from this Court directing the Department of Homeland Security to immediately release Petitioner from immigration detention, or alternatively to order a bond hearing in immigration court. Neither is appropriate and the Court should deny the petition. Petitioner argues that he is subject to detention under § 1226 rather than under § 1225. The primary issue raised by Petitioner, namely that his detention pursuant to 8 U.S.C. § 1225 and the Board of Immigration Appeals (BIA) decision in *Hurtado* is unlawful, was rejected by the Eighth Circuit. *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

Petitioner's contentions that detention should be governed by § 1226 and that Petitioner is being unlawfully detained and deprived of a bond hearing, were rejected in *Avila*. To the extent Petitioner claims he is not properly categorized as an "applicant for admission" who is also separately "seeking admission," the court of appeals has held that "[t]he text and context of § 1225 contradict the petitioners' reading of the statute." *Id.* at *11.

Additionally, the BIA, the highest administrative body charged with interpreting and applying the immigration laws, also agreed in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216. There, the BIA examined the plain language of § 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to a person, like the respondent, who are present in the United States without admission." *Matter of Yajure Hurtado,* 29 I. & N. Dec. at 225.

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." His statutory argument fails.

IV. Evidentiary Hearing

Federal 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.

ADDITIONAL REQUEST

The Federal 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

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

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Dated: May 8, 2026

DANIEL N. ROSEN
United States Attorney

<u>/s/ Jaymarie A. Miranda Mendoza</u>

BY: JAYMARIE MIRANDA MENDOZA
Special Assistant United States Attorney
Attorney ID Number PR 21063
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
Phone: (612) 664-5600
Email: jaymarie.miranda.mendoza@usdoj.gov