

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Steven F.V.Z.,

Case No. 26-cv-2909 (ECT/SGE)

Petitioner,

v.

REPORT & RECOMMENDATION

Todd Blanche, acting U.S. Attorney General;
Markwayne Mullin, Secretary,
U.S. Department of Homeland Security;
David Venturella, Acting Director of
Immigration and Customs Enforcement;
David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement; Joel Brott, Sheriff of Sherburne
County,

Respondents.

This matter is before the Court on Steven F.V.Z.'s Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241.¹ (Pet., Dkt. 1.) This Petition has been referred to the undersigned for a report and recommendation under 28 U.S.C. § 636 and District of Minnesota Local Rule 72.1. For the reasons discussed below, the Court recommends that Steven's Petition be granted in part and denied in part.

¹ Pursuant to this District's policy in immigration cases, the Court identifies Petitioner only by his first name and last initials.

BACKGROUND

Steven is a citizen of Ecuador. (Pet. ¶¶ 2, 13.) He entered the United States without inspection on January 18, 2023, at the age of fourteen as an unaccompanied minor. (*Id.* ¶¶ 13, 14.) He was arrested by immigration officials the next day and placed in removal proceedings under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”). (*Id.* ¶ 13; Ganzhorn Decl. Ex. 1.) As an unaccompanied minor, Steven was entitled to the protections provided by the William Wilberforce Trafficking Victims Protection Reauthorization Act (“TVPRA”). (Pet. ¶ 15.) Under the TVPRA, the Office of Refugee Resettlement (“ORR”) retains custody of the unaccompanied minor until he can be placed with a “sponsor.” (*Id.* ¶ 17.) The ORR, after determining that Steven was neither a flight risk nor a danger to the community, placed him with his mother under a sponsor care agreement. (*Id.* ¶¶ 18-19; Pet. Ex. 2.)

Steven applied for asylum in on December 1, 2023. (*Id.* ¶ 19; Pet. Ex. 3.) On September 10, 2024, he applied for a derivative U-Visa through his father and applied for employment authorization. (*Id.* ¶ 20; Pet. Exs. 4, 5.) The government issued him an Employment Authorization Document (“EAD”) valid through April 29, 2029. (*Id.* ¶ 20; Pet. Ex. 6.) Steven was granted deferred action based on his U-Visa application and EAD, which he contends protects him from removal. (*Id.* ¶ 20.)

Steven is now eighteen years old. He lives in Columbia Heights, Minnesota with his parents and graduated from [REDACTED] this year. (*Id.* ¶ 21.) In May 2026, he began the process of enlisting in the Minnesota National Guard. (*Id.*)

On May 14, 2026, Steven appeared in Anoka County District Court on a charge of misdemeanor assault. (*Id.* ¶ 22.) The court released him without bail and issued a no-contact order with the victim of the assault. (*Id.*) It does not appear that Steven has been convicted of this or any other crime. Upon his release, Steven was arrested without a warrant by immigration officials and taken to the Sherburne County Jail, where he remains. (*Id.* ¶¶ 23-25.)

On June 10, 2026, Steven filed this Petition challenging his arrest and custody as unconstitutional and seeking his immediate release. He claims that his arrest and detention violate (1) the Administrative Procedures Act (“APA”); (2) the Due Process Clause of the Fifth Amendment; (3) the Fourth Amendment; and (4) the INA.²

Respondents oppose the Petition, arguing that Steven is lawfully detained under 8 U.S.C. § 1225(b)(2)(A) as a noncitizen present in the United States without lawful admission and is therefore subject to mandatory detention.

ANALYSIS

“A writ of habeas corpus enables a person detained by the government to challenge the legality of his confinement and, if successful, obtain his release.” *Abdulkadir A. v. Sessions*, No. 18-cv-2353 (NEB/HB), 2018 WL 7048363, at *2 (D. Minn. Nov. 13, 2018)

² Steven recognizes that his INA claim is currently foreclosed under the Eighth Circuit Court of Appeals decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), but wishes to preserve the issue for appeal. (Pet. ¶¶ 126-28.) The Court will consider the issue raised and preserved and will not address it in this Order. *Avila* does not preclude the Court’s review of Steven’s other arguments in support of release.

Federal courts have jurisdiction to hear habeas challenges to the lawfulness of immigration-related detentions under 28 U.S.C. § 2241. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

A writ of habeas corpus can be granted to a petitioner who demonstrates that he is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3):

It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all “persons” within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.

Id. at 693 (citations omitted). The distinction between a noncitizen who has “effected an entry into the United States and one who has never entered runs throughout immigration law.” *Id.* The petitioner bears the burden to prove that his detention is illegal by a preponderance of the evidence. *Belsai D.S. v. Bondi*, 810 F. Supp. 3d 1016, 1020 (D. Minn. 2025) (citations omitted).

The Court turns first to Steven’s due process claim, as it is dispositive. Steven argues that his continued detention violates his right to due process under the Fifth Amendment and should be analyzed using the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Respondents contend that the *Mathews* test is inapplicable because, among other things, the government can detain a noncitizen for as long as deportation proceedings are still pending without running afoul of due process, as held in *Banyee v. Garland*, 115 F.4th 928, 931–933 (8th Cir. 2024).

The majority of judges in this District have concluded that *Banyee* does not foreclose applying the *Mathews* balancing test in these circumstances. *See, e.g., Felipe*

S.P. v. Blanche, No. 26-CV-2212 (NEB/DJF), 2026 WL 1911656, at *5-6 (D. Minn. July 2, 2026); *Rey A. v. Blanche*, No. 26-CV-2287 (NEB/JFD), 2026 WL 1678230, at *5 (D. Minn. May 29, 2026), *Report and Recommendation adopted by* 2026 WL 1683219 (D. Minn. June 10, 2026); *Jesus Alejandro G. A. v. Blanche*, No. 26-CV-1932 (LMP/ECW), 2026 WL 1383138, at *6 (D. Minn. May 18, 2026); *Manuel G. v. Blanche*, No. 26-CV-2385 (SRN/ECW), 2026 WL 1256358, at *3 (D. Minn. May 7, 2026); *Axel J.M.C. v. Stanski*, No. 26-CV-2281 (JRT/EMB), 2026 WL 1171344, at *3 (D. Minn. Apr. 29, 2026); *Orlando R.V.V. v. Blanche*, No. 26-CV-1903 (MJD/SGE), Dkt. 11 (D. Minn. Apr. 28, 2026); *but see Brayam G.G. v. Bondi*, No. 26-CV-1985 (DMT/EMB), Dkt. 22 ¶ 8 (D. Minn. Apr. 15, 2026). The Court agrees with this approach and will proceed accordingly.

It is beyond dispute that Steven is entitled to due process of law. The Fifth Amendment provides, in pertinent part, that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law[.]” U.S. Const. Amend. V. The United States Supreme Court has determined that the Due Process Clause “applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; *see also Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (holding that “[it] is well established that the Fifth Amendment entitles aliens to due process of law” in the context of removal proceedings) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

To determine whether a detainee’s due process rights have been violated, courts apply a three-part balancing test that weighs: (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 321.

Respondents argue that the first factor, the private interest that will be affected by the official action, weighs in their favor. They specifically argue that Steven's fundamental rights are not implicated because, as a noncitizen, he does not have any rights in this context. (Dkt. 7, at 21.) The Court disagrees. A person's interest in being free from detention is the "most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty that [the Fifth Amendment's Due Process] Clause protects."). Steven is currently held at Sherburne County Jail, where he has been since May 2026. It cannot be disputed that he is detained under conditions that resemble criminal incarceration. *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025) ("When assessing [the first factor], courts consider conditions under which detainees are currently held, including whether a detainee is held in conditions indistinguishable from criminal incarceration."). Steven is eighteen years old and being detained away from his family. Accordingly, the first *Mathews* factor favors Steven.

The second *Mathews* factor considers the risk of an erroneous deprivation of liberty and "the degree to which additional or substitute procedural safeguards could ameliorate the risks of erroneous deprivation." *Selvin Adonay E.M. v. Noem*, 817 F. Supp. 3d 720, 734

(D. Minn. 2025) (citing *Mathews*, 424 U.S. at 335). The Court finds that “a substantial risk of erroneous deprivation of liberty exists” for a noncitizen, like Steven, “who was arrested within the United States and lacks any prior release by immigration authorities, but who has established a life here in the United States” when he is detained without an individualized determination. *Rodriguez Brizuela v. Noem*, Case No. 5:26-cv-0279-JKP, 2026 WL 752257, at *6 (W.D. Tex. Mar. 12, 2026). And although detention during removal proceedings is constitutionally permissible, “the government’s authority to detain noncitizens is not limitless” and “should advance two regulatory goals: (1) ensuring the appearance of noncitizens at their immigration proceedings; and (2) preventing danger to the community while those proceedings are ongoing.” *Jesus Alejandro G.A. v. Blanche*, No. 26-cv-1932 (LMP/ECW), 2026 WL 1383138, at *11 (D. Minn. May 18, 2026) (cleaned up). An individualized hearing would give both parties an opportunity to be heard as to whether Steven’s continued detention is necessary to advance the regulatory goals of pre-removal detention.

The third *Mathews* factor is the government’s interest, “including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.” 424 U.S. at 226. The Court is mindful of the government’s legitimate interest but does not agree that such interest supersedes a detainee’s due process rights. Further, the Court is unpersuaded that Respondents’ interests are “subverted by requiring the minimal procedural safeguard of a bond hearing.” *Manuel G. v. Blanche*, Case No. 26-cv-2385 (SRN/ECW), 2026 WL 1256358, at *5 (D. Minn. May 7, 2026). As noted, granting Steven a bond hearing will give both sides an opportunity to

present arguments as to continued detention. This safeguard will “reduce the risk of erroneous deprivation without imposing significant burdens on the Government.” *Selvin*, 817 F. Supp. 3d at 734. Whether Steven poses a risk to public safety given his arrest for misdemeanor assault is for the immigration court to decide.

The Court concludes that the *Mathews* factors weigh in Steven’s favor and that mandatory detention under § 1225(b)(2)(A), as applied to Steven in this case, violates his constitutional right to procedural due process.³ The appropriate remedy for such a constitutional deprivation is an opportunity to be heard, which is the equivalent of a bond hearing.⁴

CONCLUSION

Based on the foregoing, and on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. The Petition (Dkt. 1) be **GRANTED IN PART** as follows:

- a. Petitioner’s detention without an individualized bond hearing under § 1225(b)(2) be determined to violate his due process rights;

³ Because the Court determines that Steven’s Due Process argument requires granting relief, the Court does not reach his arguments under the Fourth Amendment or the APA. *Faysal N. v. Noem*, Case No. 25-cv-4641 (JMB/DLM), 2026 WL 36066, at *3 n.3 (D. Minn. Jan. 6, 2026).

⁴ The Court understands that the immigration court could determine that it lacks jurisdiction over Steven’s bond determination in light of *Avila*, as it did in *David J.C.P. v. Blanche*, No. 26-CV-2181 (DWF-ECW), Dkts. 18-1, 19 at 2-3 (D. Minn. May 14, 2026). In that case, the Court held that the immigration court hearing did not “satisfy the Court’s order requiring that Respondents provide Petitioner with a bond hearing.” *Id.* Dkt. 19, at 2. Should that be the case here, the Court should consider recommending Steven’s immediate release, as the Court did in *David J.C.P. Id.* at 3.

- b. Respondents be ordered to provide Petitioner with a bond hearing within one week after issuance of the Court's Order;
 - c. Respondents be ordered to file notice of such bond hearing directly with the Court within two hours of its scheduling;
 - d. If a bond hearing takes place that results in Petitioner's release, Respondents be ordered to:
 - i. Release Petitioner to Minnesota;
 - ii. At a safe time and place communicated at least two hours in advance to Petitioner's counsel; and
 - iii. With all of Petitioner's personal effects in Respondents' possession, such as Petitioner's driver's license, immigration papers, passport, cell phone, keys, and the like;
 - e. If a bond hearing does not take place as ordered, the Respondents be ordered to immediately release Petitioner from custody into Minnesota with the same conditions of release described in 2(c) above;
2. Respondents be ordered to file a status report with the Court within 48 hours of the conclusion of the bond hearing or Respondents' decision to release Petitioner from custody detailing the results of the bond hearing or its actions related to release; and
3. The remainder of the Petition be **DENIED WITHOUT PREJUDICE**.

Dated: August 1, 2026

s/ Shannon G. Elkins
SHANNON G. ELKINS
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).