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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RODNEY VALIDO MESA Petitioner, v. CHRISTOPHER CHESTNUT et al, Respondents.	CASE NO. 1:26-CV-05336-DAD-AC ANSWER TO HABEAS PETITION AND OPPOSITION TO RELIEF

I. Preliminary matters

On the face of the habeas petition, the petitioner does not appear to be a member of the class certified in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal), because he is detained under 8 U.S.C. § 1225(b)(1).[1] Respondents do not request a hearing and do not intend to file any additional affirmative briefing. Respondents do not oppose a ruling on the habeas petition without further briefing. Respondents oppose habeas and all relief. There appears to be no substantial difference between this case and the cases the Court cited in its minute order (ECF 5) but respondents nonetheless oppose relief for the reasons noted below. Respondents do not oppose the Court ruling directly on the habeas petition without further briefing.

[1] In *Maldonado Bautista*, the court certified the following class: "All noncitizens in the United States without lawful status who (1) have entered the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista v. Noem*, No. 5:25-cv-01873, 2025 WL 3713987, at *2 (C.D. Cal. Dec. 18, 2025).

BACKGROUND

Petitioner is native and citizen of Cuba. Petitioner was encountered by Border Patrol on January 15, 2025, he was placed into expedited removal and issued a Notice to Appear in February 2025 after establishing a credible fear. He was denied asylum but granted withholding on June 24, 2025. He appealed to the Board of Immigration Appeals (BIA), granted a briefing extension by the BIA on November 17, 2025 and the BIA issued a decision dismissing his appeal on February 24, 2026. He filed a petition for review (PFR) with the 9th circuit that same month and was issued a temporary stay of removal which is still in effect and the PFR is still pending. *See* Exhibits 1-6

Petitioner is currently detained pursuant to 8 USC § 1225(b)(1)(B)(ii).

DISCUSSION

A. Petitioner is Detained Under 8 U.S.C. § 1225(b)(1)

Section 1226(a) provides for the detention of noncitizens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under § 1226(a), DHS may detain a noncitizen during removal proceedings, release him on bond, or release him on conditional parole.

Although § 1226(a) "conceivably applies to all aliens" in removal proceedings, a different section—§ 1225—governs the detention of those who are "applicants for admission." 8 U.S.C. § 1225(a)(1); *see Altamirano Ramos v. Lyons*, --- F. Supp. 3d ----, No. 25-09785, 2025 WL 3199872, at *6 (C.D. Cal. Nov. 12, 2025) (applying "the 'commonplace' principle of statutory interpretation that 'the specific governs the general'" (quoting *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992)). In turn, § 1225(b)(1) provides that an "applicant for admission" is subject to mandatory detention pending full removal proceedings and the adjudication of any fear-based claims. *See* 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV), and 8 C.F.R. § 235.3(b)(2)(iii), and (b)(4)(ii); *see also Matter of M-S-*, 27 I & N Dec. at 510.

Section 1225 defines "applicant for admission" to include "[a]n alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). This definition adopts the longstanding "entry fiction" doctrine, under which "an alien who is physically present but has not been lawfully admitted

into the country is 'legally considered to be detained at the border and hence as never having effected entry into this country.'" *Altamirano Ramos*, 2025 WL 3199872, at *7 (quoting *Alvarez-Garcia v. Ashcroft*, 378 F.3d 1094, 1097 (9th Cir. 2004)); *Matter of Lemus-Losa*, 25 I & N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission[.]").[2]

Here, Petitioner was never admitted into the United States and thus is an "applicant for admission" under § 1225(a)(1). Petitioner was placed into removal proceedings under 8 U.S.C. § 1229a. Petitioner is subject to mandatory detention under 8 USC § 1225(b)(1)(B)(ii).

To be sure, this Court has previously applied § 1226(a) rather than § 1225(b) in similar circumstances. *See Selis-Tinoco v. Noem*, No. 25-01762, 2025 WL 3567862, at *4 (E.D. Cal. Dec. 14, 2025); *Labrador-Prato v. Noem*, No. 25-01598, 2025 WL 3458802, at *4 (E.D. Cal. Dec. 2, 2025). There, this Court followed "a majority of courts" holding that "section 1226 rather than section 1225 is the appropriate section to apply in cases in which a noncitizen is already living in the United States." *Selis-Tinoco*, 2025 WL 3567862, at *5; *Labrador-Prato*, 2025 WL 3458802, at *4. But "the overwhelming majority of district courts sometimes get the law very wrong." *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942, at *1 (E.D. Mo. Nov. 10, 2025); *see Altamirano Ramos*, 2025 WL 3199872, at *4 (reconsidering this reasoning because, "after additional research and analysis, the court has concluded that Petitioner is subject to mandatory detention" under § 1225(b), and that "Petitioner is not eligible for a bond hearing under 8 U.S.C. § 1226(a)"); *see also Cortes Alonzo v. Noem*, No. 25-01519, 2025 WL 3208284, at *3 (E.D. Cal. Nov. 17, 2025) (reaching the same conclusion). This Court should not follow *Selis-Tinoco* or *Labrador-Prato* here for several reasons.

First, Petitioner is subject to mandatory detention under § 1225(b)(1), not § 1225(b)(2)(A). Several district courts have held that § 1225(b)(2)(A) does not apply to noncitizens in the United States unless they are actively "seeking admission," but that language does not appear in § 1225(b)(1).

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[2] By stating that a noncitizen present in the United States without admission "shall be *deemed*" to be an applicant for admission, *see* 8 U.S.C. § 1225(a)(1) (emphasis added), the statute acknowledges the "unconventional" usage of the term consistent with the "entry fiction" doctrine. *Deem*, Black's Law Dictionary (11th ed. 2019) ("To treat (something) as if (1) it were really something else, or (2) it has qualities that it does not have.").

Similarly, under § 1225(b)(2)(A), some district courts have required a finding by an immigration officer that the noncitizen "is not clearly and beyond a doubt entitled to be admitted," but that language also does not appear in § 1225(b)(1).

Second, declining to apply § 1225(b) to a noncitizen because he or she "is already living in the United States" contravenes the "entry fiction" doctrine and the plain text of § 1225(a)(1). That section makes clear that § 1225(b) applies to a noncitizen "*present in the United States* who has not been admitted." 8 U.S.C. § 1225(a)(1) (emphasis added); *see, e.g.*, *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913, at *1–3 (D. Mass. July 28, 2025) (holding that a noncitizen who was never admitted but lived in the United States and was later detained after a traffic stop "remain[ed] an applicant for admission" and "his continued detention [was] therefore authorized by § 1225(b)(2)(A)").

Moreover, as the court in *Altamirano Ramos* explained, imposing some geographical distinction between §§ 1225 and 1226 "creates difficult and improper line drawing exercises for courts and is inconsistent with the entry fiction doctrine." 2025 WL 3199872, at *7. For example:

> [I]f § 1225(a) is interpreted as applying only to aliens at the border (despite no support in the text for that limitation), then where does the statute's application end? One mile from the border? Twenty-five miles? And how quickly must the alien be apprehended before the statute no longer applies? Within one hour? One day? One week? The statute does not address those difficult questions (because it is not temporally or geographically limited and instead applies to *any* alien who is "present in the United States who has not been admitted").

Id. (quoting 8 U.S.C. § 1225(a)(1)). Those questions, in turn, "are not only difficult"—they are "not for the courts to answer." *Id.* at *8. They are "questions 'for the political department of the government,' which has 'plenary authority to decide which aliens to admit' and the 'procedures to be followed' in that admission." *Id.* (quoting *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139, 140 (2020)).

At bottom, the distinction between §§ 1225 and 1226 is not the location where a noncitizen is found or the duration of their presence in the United States. Rather, applying § 1225 instead of § 1226 turns on whether the noncitizen was admitted to the United States at the time of entry. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218–19 (BIA 2025); *see also Matter of M-S-*, 27 I. & N. at 516 (explaining that "section 235 [8 U.S.C § 1225] (under which detention is mandatory) and section 236(a) [8 U.S.C. § 1226(a)] (under which detention is permissive) can be reconciled only if they apply to

different classes of aliens"). This interpretation comports with the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), which "added § 1225(a)(1)" to "ensure[] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA—in the position of an 'applicant for admission.'" *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020); *see United States v. Gambino-Ruiz*, 91 F.4th 981, 990 (9th Cir. 2024) (refusing "to interpret the INA in a way that would in effect repeal that statutory fix" in the IIRIRA).

B. Any Substantive Due Process Claim Fails

It is well established that "[d]etention during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531 (2003); *Wong Wing v. United States,* 163 U.S. 228, 235 (1896) ("We think it clear that detention, or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens would be valid."). As the Supreme Court held more than a century ago, "deportation proceedings 'would be vain if those accused could not be held in custody pending the inquiry into their true character.'" *Id.* (quoting *Wong Wing,* 163 U.S. at 235). The substantive component of the Due Process Clause does not require individualized determinations of dangerousness or flight risk to detain a noncitizen pending removal proceedings. *See Demore*, 538 U.S. at 514, 531.

Of course, a noncitizen "could be" entitled to an individualized determination as to flight risk and dangerousness "if the continued detention became unreasonable or unjustified." *See id.* at 532 (Kennedy, J., concurring). Here, however, there is no evidence suggesting that Petitioner's detention pending the completion of removal proceedings is "'indefinite' and 'potentially permanent.'" *See id.* at 528 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001)); *see also, e.g.*, *Keo v. Warden of the Mesa Verde ICE Processing Center*, No. 24-00919, 2025 WL 1029392, at *8 (E.D. Cal. Apr. 7, 2025) (holding that the mandatory detention of a lawful permanent resident for 22 months during removal proceedings was constitutional, and no bond hearing was required, because the removal proceedings had a "definite termination point" and the petitioner's detention was not indefinite (citing *Jennings v.*

Rodriguez, 583 U.S. 281, 304 (2018); *Demore*, 538 U.S. at 527, 538)). Petitioner thus has not shown that he is likely to succeed on his substantive due process claim.

C. Any Procedural Due Process Claim Fails

In *Mathews v. Eldridge*, the Supreme Court held that the "identification of the specific dictates of due process generally requires consideration of three distinct factors." 424 U.S. 319, 334–35 (1976). They are (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." *Id.* at 335.

Over the ensuing 50 years, however, the Supreme Court has never used this balancing test to divine the due-process requirements for immigration detention. *Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) ("[T]he Supreme Court when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*." (citations omitted)); *id.* at 1214 ("In resolving familiar immigration-detention challenges, the Supreme Court has not relied on the *Mathews* framework.") (Bumatay, J., concurring). This is particularly unsurprising for noncitizens in Petitioner's situation because, under longstanding precedent, noncitizens who are not admitted into the United States have "only those rights regarding admission that Congress has provided by statute," and "the Due Process Clause provides nothing more." *Thuraissigiam*, 591 U.S. at 140; *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) ("Whatever the procedure authorized by Congress is, it is due process . . . ."); *see Cortes Alonzo*, 2025 WL 3208284, at *5 (holding that, if a bond hearing is not required by § 1225, then the failure to provide one to an "applicant for admission" cannot be a violation of due process); *Altamirano Ramos*, 2025 WL 3199872, at *5 (same)

In any event, even if the *Mathews* test applied here, Petitioner has not clearly shown that the test requires a bond hearing.

First, although a noncitizen's private interest in "freedom from prolonged detention" is "unquestionably substantial," *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011), the same cannot be

said for freedom from all detention itself. As noted, the Supreme Court and this Court have repeatedly upheld mandatory detention during removal proceedings against due-process challenges, even where removal proceedings are prolonged. *Demore*, 538 U.S. at 530–31; *Keo*, 2025 WL 1029392, at *8.

Second, Petitioner has not clearly shown that a hearing on his custody status would decrease the risk of him being erroneously deprived of his liberty. As noted, the record confirms that Petitioner is an "applicant for admission" who was transferred from expedited removal to full removal proceedings after establishing a credible fear of persecution or torture, and it thus appears that he is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 235.3(b)(2)(iii), (b)(4)(ii); *Matter of M-S-*, 27 I & N Dec. at 510.

Third, "the government clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022) (quoting *Demore*, 538 U.S. at 518). And, "[t]hrough detention, the government likewise seeks to 'increas[e] the chance that, if ordered removed, the aliens will be successfully removed.'" *Id.* (quoting *Demore*, 538 U.S. at 528). In addition, "[t]he risk of a detainee absconding also inevitably escalates as the time for removal becomes more imminent." *Id.*

Fourth, The record does not indicate undue delay in his case and petitioner himself has opted to request a briefing extension and to file a PFR. His proceedings have a definite end point regarding prolonged detention and the petition has made no showing that DHS would not be able to promptly remove him to a third country were his PFR stay to be vacated. Petitioner has not shown he is likely to suffer irreparable harm

As detailed above, Petitioner fails to show that he is being detained in violation of any constitutional, statutory, or other requirement. As discussed, moreover, immigration laws have long authorized officials to detain noncitizens pending removal to "assur[e] the alien's presence at the moment of removal." *Zadvydas*, 533 U.S. at 699; *see Demore*, 538 U.S. at 523 (removal is "a constitutionally valid aspect of the deportation process"); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of [the] deportation procedure.").

D. Balance of the Equities and Public Interest Do Not Favor Release

It is well settled that the public interest in enforcement of the United States' immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant." (collecting cases)); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"). This public interest outweighs Petitioner's private interest here.

CONCLUSION

For the above reasons, Petitioner's habeas petition and all requested relief should be denied.

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Respectfully submitted,

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