ERIC GRANT
United States Attorney
ELISA M. RODRIGUEZ
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ELMER VICENTE MENDEZ, [redacted]

Petitioner,

v.

RON MURRAY, *et al.*,

Respondents.

No. 1:26-CV-05353-DAD-CKD

OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS AND ALL INJUNCTIVE RELIEF

This case involves mandatory pre-order detention. Petitioner entered the United States as an unaccompanied child and was released by the Office of Refugee Resettlement (ORR). Exhibit A (Notice to Appear), B (address change). Following multiple encounters with law enforcement, ICE re-detained Petitioner. It was Petitioner's encounter with law enforcement that led to Petitioner's re-detention. Exhibit C (I-213), D (rap sheet). Detention is mandatory under 8 U.S.C. § 1225(b). Neither the statute nor the Constitution affords petitioner a path to release or a bond hearing.

I. DETENTION IS MANDATORY UNDER THE STATUTE

Petitioner is an "applicant for admission" who is subject to mandatory detention. Section 1225(b)(2) provides for mandatory detention. The plain language of § 1225 is rightly applied to aliens in this category. *See Alonzo v. Noem*, 2025 WL 3208284, at *2–4 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); id. at *3 (citing two decisions); *Altamirano Ramos v. Lyons*, 2025 WL 3199872, at *4–8 (C.D. Cal. Nov.

12, 2025); id. at *8 (citing three more decisions); *but see Alonzo*, 2025 WL 3208284, at *2–3 (conceding that "many courts," both in this District and elsewhere, have held to the contrary).

II. DUE PROCESS IS THE PROCESS AVAILABLE UNDER THE STATUTE

The due process claims of applicants for admission are coextensive with the applicable detention statute. In *DHS v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020), the Supreme Court reiterated the "important rule" that "as to 'foreigners who have never been naturalized, nor acquired any domicil or residence within the United States, nor even been admitted into the country pursuant to law,' 'the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law.'" *Id.* at 138 (emphasis added; *quoting Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892)). The Court held that "an alien who tries to enter the country illegally is treated as an 'applicant for admission,' § 1225(a)(1)," and that such an alien "has only those rights regarding admission that Congress has provided by statute." *Id.* at 140. Crucially, "the Due Process Clause provides nothing more." [1] *Id.* (emphasis added); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)).

An "alien who 'arrives in the United States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (quoting 8 U.S.C. § 1225(a)(1)). Congress by statute has provided Petitioner with the right to contest his removal. But Congress by §1225(b) has at the same time mandated that, while Petitioner exercises those rights, he must be detained. Under *Thuraissigiam* and *Shaughnessy*, the Due Process Clause provides nothing more.

Respondents acknowledge the cases to the contrary in this District. But *Thuraissigiam* explained that Congress "addressed" the problems of flight risk and the high costs of detention "by providing more

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[1] As the Eighth Circuit has recently observed, there is no warrant in this context "for a multi-factor 'reasonableness' test" of the kind exemplified by *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), because *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), "have already done whatever balancing is necessary." *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024); *accord Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022) (acknowledging that "the Supreme Court when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*," but "assum[ing] without deciding that *Mathews* applies here"); *id.* at 1214 (Bumatay, J., concurring) (similarly observing that in "resolving similar immigration-detention challenges, the Supreme Court has not relied on the *Mathews* framework").

expedited procedures for certain 'applicants for admission.' " 591 U.S. at 108. Moreover, despite its singular use of the phrase "regarding admission," *Thuraissigiam* also makes broad reference to the "due process rights" of aliens at the threshold of entry, without drawing forced distinctions between admission and other key aspects of the immigration process — such as detention — with which admission is typically intertwined. *Id.* at 139 (emphasis added); *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of [the] deportation procedure.").

III. THE STATUTE IS CONSTITUTIONAL AS APPLIED TO PETITIONER

Petitioner does not have a liberty interest in remaining out of custody during the pendency of removal proceedings. Petitioner (1) had an encounter with law enforcement; (2) had a period of release terminated because of that law enforcement encounter.

The agency's previous determination to grant release—particularly if that release was conditional and petitioner violated those conditions—does not alter petitioner's status nor endow petitioner with constitutional rights not provided for by statute. It is the statute that is the sole source of constitutional rights in the case of arriving aliens, and the statute here provides for mandatory detention. *Shaughnessy*, 345 U.S. at 215. This application is constitutional as applied to petitioner's case.

IV. PETITIONER'S TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT (TVPRA) CLAIM

Petitioner's understanding of the "least restrictive setting" provision of the TVPRA is misguided. Title 8, United States Code, Section 1232(c)(2)(B) states:

> "If a minor described in subparagraph (A) reaches 18 years of age and is transferred to the custody of the Secretary of Homeland Security, the Secretary shall consider placement in the least restrictive setting available after taking into account the alien's danger to self, danger to the community, and risk of flight. Such aliens shall be eligible to participate in alternative to detention programs, utilizing a continuum of alternatives based on the alien's need for supervision, which may include placement of the alien with an individual or an organizational sponsor, or in a supervised group home."

If Petitioner, as an unaccompanied minor, is in ORR custody and transferred to DHS custody when he turned 18, he must be put in the least restrictive setting. This is not applicable to Petitioner as he is no longer an unaccompanied minor aging out under the care of ORR. Here, Petitioner is not being transferred from ORR to DHS. Petitioner was released by ORR to a sponsor years ago and is now in DHS custody at 27 years of age.

V. RESPONSE TO COURT'S JULY 13, 2026, ORDER

Respondents do not oppose the Court converting the motion for temporary restraining order into one for a preliminary injunction. Respondents do not oppose, and in fact, respectfully request that the Court resolve the underlying habeas petition on the current briefing and without a hearing.

In response to this Court's July 13, 2026, Order, requiring Respondents to substantively address whether any provision of law or fact in this case would distinguish it from those identified in the Court's Order (Dkt. 5), Respondents note a significant difference between the petitioners in the cases cited and Petitioner—that is, Petitioner has several DUI offenses, with his last arrest involving reckless driving. The other petitioners had no criminal history beyond a traffic violation. This conduct is relevant here because in deciding on release, Respondents request that the Court consider the safety concerns to the community if released.

VI. CONCLUSION

In sum, as an unadmitted alien, Petitioner is due the process that Congress has created. That process includes mandatory detention while Petitioner's exercises statutory right to challenge removal. The petition and al injunctive relief should be dismissed.

Dated: July 14, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: */s/ Elisa M. Rodriguez*
ELISA M. RODRIGUEZ
Assistant United States Attorney
Attorneys for Respondents