UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-03299-MJD-EMB

Keiner Enrique Martinez Ramirez

Petitioner,

v.

Todd Blanche, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed this habeas corpus petition seeking a bond hearing or release from custody. Respondents[1] submit this response to explain why Petitioner is not entitled to habeas relief because he is subject to mandatory detention under 8 U.S.C. § 1225(b). Respondents respectfully emphasize that the facts of this case are **not** like the § 1226(a) and § 1225(b)(2) arguments that are discussed in *Avila*, because Petitioner was encountered at a port of entry and received humanitarian parole. Petitioner mentions *Avila*, conflating these issues, despite acknowledging the material fact that he is an arriving alien. The Court should deny Petitioner's request for habeas relief.

BACKGROUND

Any facts that are not specifically admitted herein are denied. Respondents submit the Declaration of Deportation Officer Steven Draves, ("Decl."), and exhibits A-E. Petitioner is a native and citizen of Venezuela who entered the United States on April 9, 2024 at the Paso Del Norte Port of Entry in El Paso, Texas. Decl., Ex. A. Petitioner was

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

granted humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). Decl., Exs. A and B. Such parole is not an "admission" into the United States. *See* 8 U.S.C. § 1182 (d)(5)(A); *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Petitioner's parole expired[2] on April 8, 2026. Decl., Ex B. Petitioner's asylum application is pending. Decl., Ex. F. On June 26, 2026, Petitioner was detained in Grand Forks, ND by ICE/ERO. Decl. Ex. C. Petitioner remains in ICE/ERO Custody at the Freeborn County Jail in Minnesota. Decl. ¶ 7.

ARGUMENT

Petitioner is not entitled to habeas relief. Again, this is ***not*** an *Avila* analysis case. Those cases involve noncitizens who enter the United States without admission or inspection and are later encountered by immigration officials inside the country. Here, in contrast, Petitioner was encountered immediately upon entering the country at port of entry. (Decl., Ex. A).

I. Petitioner is properly detained as an applicant seeking admission

(Counts I, II, V, and VII)

It is clear from the filed habeas petition that Petitioner misunderstands the nature of their detention status. "The term ***arriving alien*** means an applicant for admission coming or attempting to come into the United States at a port-of-entry . . . [a]n arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated . . ." 8 C.F.R. § 1001.1(q). An "applicant for admission"

---

[2] Petitioner alleges that he "received no notice of termination of his parole." Pet. ¶ 24. However, on his filed asylum application Petitioner acknowledges the expiration date of his parole on page one of the I-589 application. Decl., Ex F at pg 2. Additionally, Petitioner attached his I-94 as an exhibit to his asylum application, which also states his expiration date. Decl., Ex. F at pg. 4.

is defined, in relevant part, as an alien "who arrives in the United States []whether or not at a designated port of arrival." INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). Here, Petitioner was allowed to enter the United States on parole as part of a humanitarian program governed by § 1182(d)(5)(A). Decl., Ex. B. In relevant part, that statute states that "such parole of such alien shall *not* be regarded as an admission of the alien." *Id.* (emphasis added). It further states that when the Secretary of Homeland Security decides that the purposes of the humanitarian parole have been satisfied, "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Id.* This language is unequivocal: Petitioner is an "applicant for admission" as defined in § 1225(a)(1). At present Petitioner's parole has expired and nothing has happened to extend it. Accordingly, he is an "applicant for admission" who is not on parole status.

To that end, the following sentence from *Jennings* is fatal to the Petitioner's habeas petition, "§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Based on this language, the Petitioner, an "applicant for admission" in non-expedited removal proceedings under § 1225(b)(2), is not entitled to a bond hearing under § 1226(a). Therefore, the Court must conclude that Petitioner is subject to mandatory detention for the duration of his removal proceedings.

DHS may place aliens arriving in the United States in either expedited removal proceedings under 8 U.S.C. § 1225(b)(1), or full removal proceedings under 8 U.S.C. §

1229a (2018). *Matter of Q. LI*, 29 I&N Dec. 66, 68 (BIA 2025). For those placed in expedited removal proceedings who are referred to an Immigration Judge for consideration of their asylum application, 8 U.S.C. § 1225(b)(1)(B)(ii), requires detention until the final adjudication of the asylum application. *See Matter of M-S-*, 27 I&N Dec. 509, 516 (A.G. 2019). Likewise, for aliens arriving in an and seeking admission into the United States who are placed directly in full removal proceedings, 8 U.S.C. § 1225(b)(2)(A), mandates detention "until removal proceedings have concluded." *Jennings*, 583 U.S. at 299.

This longstanding legal premise has been upheld time and time again by the Circuit Courts of the United States and the Board of Immigration Appeals. See, e.g., *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258, 1283 (11th Cir. 2026) (acknowledging the distinction between arriving aliens and all other inadmissible aliens, with bond redetermination by an immigration judge being unavailable to arriving aliens); *Lopes-Campos v. Raycraft*, 175 F.4th 713, 725 (6th Cir. 2026) (similar acknowledgement); *Zheng v. Gonzales*, 422 F.3d 98, 117 (3rd Cir. 2005) (discussing the definition of "arriving aliens" as those seeking admission at a port-of-entry and recognizing that parole is a form of relief from immigration detention; it is not a form of relief from removal proceedings, and when the purposes of parole have been served the parolee must be returned to custody and removal proceedings must continue); *Succar v. Ashcroft*, 394 F.3d 8, 16 (1st Cir. 2005) (recognizing that, as arriving aliens (those seeking admission at a port of-entry), that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding..."); *Al Otro Lado v. Wolf*, 952 F.3d 999, 1012 (9th Cir 2020) (drawing a distinction between an alien who is

already "physically present in the United States" on the one hand and arriving aliens on the other, including "at a land border," in the process of arriving); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2005) (discussing the distinction between "arriving aliens" and aliens apprehended inside the United States acter crossing the border without being admitted or paroled in the context of jurisdiction over adjustment of status); *Akhtar v. Gonzales*, 450 F.3d 587, 591 (5th Cir. 2005)(similar discussion *as Ortega-Cervantes*); *Xia v. Bondi*, 137 F.4th 85, 89 (2nd Cir. 2025) (similar discussion); *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019); *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998).

Petitioner misunderstands the nature of his specific status. The material fact regarding Petitioner's entry into the United States by Humanitarian Parole, (Pet. ¶ 6), and then an argument stating that he should be considered detained under § 1226(a) makes no sense. (Pet. ¶ 52) Petitioner's counsel argues that Petitioner is misclassified because he entered without inspection, which is just not true. (Pet. ¶¶ 42, 47). The record is clear that Petitioner was served a Notice to Appear on the date of his entry in the United States indicating he is an arriving alien. Decl., Ex. A. Further he had humanitarian parole for nearly two years. (Decl., Ex. B). It appears Petitioner is trying to ride the wave of recent case law interpreting § 1225(b)(2), rejecting the government's interpretation of the statute, and concluding that many immigration detainees to bond hearings under § 1226(a). Trying to conflate the issues that were once contested before the *Avila* decision, which are clearly out of place for this case. This Court should deny the habeas petition as the record is clear that he is an arriving seeking admission under § 1225(a) put into non-expedited removal proceedings under § 1225(b)(2).

II. No Violation of Due Process Rights

(Counts I, II, III, IV)

Substantive Due Process

Petitioner's arguments in this case are statutory. But even if he was raising constitutional due process claims, those 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) 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) 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).

Procedural Due Process

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). 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), 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 substantive determination about flight risk or dangerousness. Those factors are irrelevant under the statute. Section 1225(b) 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), 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).

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). *Banyee* and *Demore* analyzed detention under § 1226(c), 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*). Take for instance Petitioner's allegation that Due Process requires the Respondents to afford him a bond hearing. Pet. ¶ 70. 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. An argument regarding the government not having a legitimate purpose fails, because the Eighth Circuit and Supreme Court precedent have already decided 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).

Petitioners do 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. Once Petitioner's humanitarian parole expired in 2026, his presence in the United States became unlawful. Section 1182(d)(A)(5) clearly reverts the Petitioner back to his original status, thus § 1225(b) governs the Petitioner's mandatory detention. Any change to detention status in this situation is ultimately an issue for Congress to address.

III. Form I-200 is necessary when a non-citizen is not likely to escape
(Counts VIII, V, VI, IX, and X)

Petitioner argues that non-citizens being detained under § 1225(b) may only be arrested without a warrant pursuant § 1357(a)(2). Pet. ¶ 123. This argument fails by just a simple reading of the referenced statute, which states:

> Any officer or employee of the Service . . . shall have power without warrant . . . to arrest any alien . . . if he has reason to believe that the alien . . . is likely to escape ***before a warrant*** can be obtained for his arrest . . ." 8 U.S.C. § 1357(a)(2) (***emphasis added***).

Essentially, a warrant is preferred in all situations not just for non-citizens that are subject to detention under § 1226(a), as Petitioner would lead this Court to believe[3]. The Form I-200 is consistent with this reading, as the first statement is directed "To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations." Decl., Ex. C. That language identifies which officers are authorized to conduct arrest and does not indicate that the arrest will occur pursuant § 1226

[3] In fact there are plausible situations when a non-citizen that entered the United States on a B-2 Travel Visa, and overstayed their visa, can be arrested without a warrant if the Service believes there is likelihood of escape.

or represent to Petitioner that he is being arrested under that statute. *Picazo Jimenez. v. Blanche*, 26-cv-2740-ECT-JFD at 3 (D. Minn. June 29, 2026); *See* also *Gudino v. Almodovar*, No. 1:26-cv-00402-MKV, 2026 WL 251887, at *3 (S.D.N.Y. Jan. 30, 2026); *Liang v. Almodovar*, No. 1:25-cv-09322-MKV, 2025 WL 3641512, at *2 & n.6 (S.D.N.Y. Dec. 15, 2025). The direction does not limit the applicability of the warrant to a certain class of detainee. Rather, the direction limits the class of people who can serve it; namely, those who are authorized to serve warrants under 8 U.S.C. §§1226 and 1357, and 8 C.F.R. § 287.

Whereas § 1357 deals with warrantless arrest procedures, including procedures to be followed before any I-200 warrant has been issued. A warrant issued *pursuant to* a statute that describes warrantless detention, arrest, and search powers is a contradiction in terms. The parameters for I-200 warrants are set out in 8 CFR § 236.1(b)(1), which places no limitations on using warrants to arrest individuals detained under § 1225 versus § 1226. The regulation reads:

> At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

Like the I-200, the regulation specifies *who* can serve the warrant rather than *on whom* the warrant can be served. With that said, this Form I-200 was served after the issuance of NTA. Decl., Ex. A and C. The record shows the issuance of NTA was the same day Petitioner was paroled into the United States as an Arriving Alien, on April 9, 2026. Decl.,

Ex. A. The Form I-200 was issued and served at the time of the Petitioner's arrest on June 26, 2026. Decl., Ex. C. The Court should deny the habeas petition as there are no procedural defects in this matter.

IV. No violation of the APA or *Accardi* Doctrine
(Counts V and VI)

For the reasons discussed, *supra*, Petitioner failed to prove the agency failed to follow its regulations. The facts and documentation clearly show that the agency completely and methodically completed all its regulated requirements. Petitioner cannot support an *Accardi* challenge for want of an arrest of warrant, because a warrant was properly issued and served. Decl. Ex. C. The NTA was issued prior to the arrest of the non-citizen, therefore, no violation of 8 C.F.R. § 236.1 exists. Decl., Ex. A. Petitioner was notified of the expiration of his humanitarian parole at its issuance and recognized the expiration on his filed applications. Decl., Exs. B and F. In each instance, Respondents followed and satisfied every regulation required under these particular facts. There is nothing to correct, thus there is no violation of the APA and no *Accardi* doctrine argument can take hold here. Thus, the Court should deny this habeas petition.

EVIDENTARY HEARING

Respondents believe the Court can rule on this petition without holding an evidentiary hearing. The only issues before the Court are ones of legal interpretation capable of resolution on the parties' submissions.

CONCLUSION

Petitioner is subject to mandatory detention under § 1225(b)(2), as an arriving alien in removal proceedings. The Court should therefore deny this habeas petition.

[SIGNATURE ON NEXT PAGE]

Dated: July 22, 2026

DANIEL N. ROSEN
United States Attorney

s/ Carl H. Berry
BY: CARL H. BERRY
Special Assistant United States Attorney
Attorney ID Number VA 85063
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
Phone: 612-664-5600
Email: carl.berry@usdoj.gov