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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

Lazaro MALDONADO BAUTISTA, *et al.*,

Plaintiffs-Petitioners,

v.

Kristi NOEM, Secretary, Dept. of Homeland Security, *et al.*,[1]

Defendants-Respondents.

No. 5:25-cv-01873-SSS-BFM

DEFENDANTS' OPPOSITION TO PETITIONERS' MOTION FOR SUMMARY JUDGMENT

Hearing Date: October 17, 2025
Hearing Time: 2:00 p.m.
Courtroom: 2
Judge: Sunshine S. Sykes

[1] The undersigned does not represent Fereti Semaia, Warden, Adelanto ICE Processing Center, as Adelanto is a private facility and Warden Semaia is not a federal employee. However, all arguments made on behalf of the remaining Respondents apply with equal force to Warden Semaia, who was detaining the Petitioners at the request of the United States.

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INTRODUCTION

The plain language of the Immigration and Nationality Act ("INA") mandates that the Petitioners—who are present in the United States without being admitted—are correctly considered "applicants for admission" and therefore subject to detention under 8 U.S.C. § 1225(b)(2). *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018) ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants of admission until certain proceedings have concluded.") The best reading of the statutes is that, Congress insured that all aliens would be inspected by immigration authorities, by treating aliens, who are present in the United States without having been inspected and admitted, as applicants for admission. Aliens who are present without having been inspected and admitted have the benefit of full removal proceedings and are not subject to expedited removal. But they are subject to detention during their removal proceedings. The Court should deny Petitioners' Motion for Summary Judgment.

BACKGROUND

I. Legal Background

A. Applicants for Admission

"The phrase 'applicant for admission' is a term of art denoting a particular legal status." *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Section 1225(a)(1) states:

> (1) Aliens treated as applicants for admission.— An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival …) shall be deemed for the purposes of this Act an applicant for admission.

8 U.S.C. § 1225(a)(1).[2] Section 1225(a)(1) was added to the INA as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). Pub. L. No. 104-208, § 302, 110 Stat. 3009-546. "The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout

[2] Admission is the "lawful entry of an alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13).

immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Before IIRIRA, "immigration law provided for two types of removal proceedings: deportation hearings and exclusion hearings." *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). A deportation hearing was a proceeding against an alien already physically present in the United States, whereas an exclusion hearing was against an alien outside of the United States seeking admission *Id.* (quoting *Landon v. Plasencia*, 459 U.S. 21, 25 (1982)). Whether an applicant was eligible for "admission" was determined only in exclusion proceedings, and exclusion proceedings were limited to "entering" aliens—those aliens "coming ... into the United States, from a foreign port or place or from an outlying possession." *Plasencia*, 459 U.S. at 24 n.3 (quoting 8 U.S.C. § 1101(a)(13) (1982)). "[N]on-citizens who had entered without inspection could take advantage of greater procedural and substantive rights afforded in deportation proceedings, while non-citizens who presented themselves at a port of entry for inspection were subjected to more summary exclusion proceedings." *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010); *see also Plasencia*, 459 U.S. at 25-26. Prior to IIRIRA, aliens who attempted to lawfully enter the United States were in a worse position than aliens who crossed the border unlawfully. *See Hing Sum*, 602 F.3d at 1100; *see also* H.R. Rep. No. 104-469, pt. 1, at 225-229 (1996). IIRIRA "replaced deportation and exclusion proceedings with a general removal proceeding." *Hing Sum*, 602 F.3d at 1100.

IIRIRA added Section 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." *Torres*, 976 F.3d at 928; *see also* H.R. Rep. 104-469, pt. 1, at 225 (explaining that § 1225(a)(1) replaced "certain aspects of the current 'entry doctrine,'" under which illegal aliens who entered the United States without inspection gained equities and privileges in immigration proceedings unavailable to aliens who presented themselves for inspection at a port of entry). The provision "places some physically-but not-lawfully present noncitizens into a fictive legal status for purposes of removal proceedings." *Torres*, 976 F.3d at 928.

B. Expedited Removal Under 8 U.S.C. § 1225

IIRIRA established distinct types of removal proceedings. Pub. L. 104-208, 110 Stat. 3009, 3009-546 (1996). Removal proceedings under § 1225 are known as "expedited removal proceedings." *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109–113 (2020) (citing provisions). Only two categories of aliens are eligible for expedited removal, rather than full removal proceedings, (1) "arriving aliens" and (2) aliens who "ha[ve] not been admitted or paroled into the United States" and have not been "physically present in the United States" for two years. 8 U.S.C. § 1225(b)(1)(A)(i)-(iii). "Arriving aliens" are defined by regulation as "an applicant for admission coming or attempting to come into the United States at a port-of-entry …" 8 C.F.R. § 1.2.

Expedited removal proceedings are conducted by an immigration officer, not an Immigration Judge ("IJ"). The immigration officer asks the applicant for admission questions to determine (a) "identity, alienage, and inadmissibility," and (b) whether the alien intends to apply for asylum. 8 C.F.R. § 235.3(b)(2)(i), (b)(4). Aliens are not entitled to counsel and no recording or transcript is made. *Id*. § 235.3(b)(2)(i). If the alien is inadmissible and does not intend to apply for asylum, the immigration officer, after supervisory review, issues a Notice and Order of Expedited Removal. *Id*. § 235.3(b)(2)(i). The alien has no right to appeal to an IJ, the Board of Immigration Appeals ("BIA") or any other court. *Id*. § 235.3(b)(2)(ii); 8 U.S.C. § 1252(a)(2)(A)(i). Unlike section 240 proceedings, which often take place over the course of several months, the expedited removal process is "conducted on a very compressed schedule and can result in deportation in hours or days." *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *4 (D.D.C. Aug. 1, 2025).

C. Removal Proceedings under 8 U.S.C. § 1229(a)

Removal proceedings under § 1229a are commonly referred to as "full removal proceedings" or "240 removal proceedings" due to the statutory section of the INA in which they appear. 8 U.S.C. § 1229a; INA § 240. The proceedings take place before an IJ, an employee of the Department of Justice. 8 U.S.C. § 1229a(a)(1), (b)(1). Aliens in 1229a

proceedings have an opportunity to apply for relief from removal. *See*, *e.g.*, 8 U.S.C. § 1158 (asylum); 8 U.S.C. § 1229b(b) (cancellation of removal for nonpermanent residents); 8 U.S.C. § 1255 (adjustment of status). These are adversarial proceedings in which the alien has the right to hire counsel, examine and present evidence, and cross-examine witnesses. 8 U.S.C. § 1229a(b)(4). Either party may appeal the IJ decision to the BIA. 8 U.S.C. § 1229a(b)(4)(C); *see also* 8 C.F.R. § 1240.15. If the BIA issues a final order of removal, the alien may also seek judicial review at a U.S. court of appeals through a petition for review. 8 U.S.C. § 1252.

D. Detention under the INA

The INA authorizes civil detention of aliens during removal proceedings and "[d]etention is necessarily part of this deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see also* 8 U.S.C. § 1225(b), 1226(a), and 1231(a). "Where an alien falls within this statutory scheme can affect whether his detention is mandatory or discretionary, as well as the kind of review process available to him if he wishes to contest the necessity of his detention." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).

i. Detention under Section 1225

The INA mandates the detention of applicants for admission. 8 U.S.C. § 1225(b)(1) and (2); *see also Jennings*, 583 U.S. at 287 (Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).").[3]

[3] Petitioners cite *Jennings* for the proposition that "8 U.S.C. § 1225(b)(2), applies only 'at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.'" Dkt. 42 at 10. This is a misreading of *Jennings*. The full text is:

> To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering.
>
> That process of decision generally begins at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible. Under § 302, 110 Stat. 3009-579, 8 U.S.C. § 1225, an alien who "arrives in the United States," or "is present"

(footnote cont'd on next page)

As explained above, arriving aliens and aliens present less than two years are subject to expedited removal. 8 U.S.C. § 1225(b)(1). If an alien "indicates an intention to apply for asylum," the alien proceeds through the credible fear process and is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(ii); *see also* 8 U.S.C. § 1225(B)(1)(B)(iii)(IV).

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. The Supreme Court recognized that 1225(b)(2) "applies to all applicants for admission not covered by § 1225(b)(1)." *Id*. Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a removal proceeding "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). While section 1225 does not provide for aliens to be released on bond, DHS has the sole discretionary to release any applicant for admission on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

ii. Detention under Section 1226

Section 1226 provides that "an alien may be arrested and detained pending a decision on whether the alien is to be removed. 8 U.S.C. § 1226(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole.[4] By regulation, immigration officers can release an alien if the alien demonstrates that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). An alien can also request custody redetermination (i.e., a bond hearing) by an IJ at any time before a final

in this country but "has not been admitted," is treated as "an applicant for admission." § 1225(a)(1).

Jennings, 583 U.S. at 286–87.

[4] Being "conditionally paroled under the authority of § 1226(a)" is distinct from being "paroled into the United States under the authority of § 1182(d)(5)(A)." *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007).

order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

II. Factual and Procedural History

The basic facts in this case are not in dispute. Petitioners are all aliens that entered the United States without being inspected or admitted. *See* Class Action Compl. and Am. Pet. for Writ of Habeas Corpus ("Compl."), ¶¶ 56, 64, 72, 80. DHS initiated removal proceedings charging them with being present in the United States without admission. *Id.*, ¶¶ 3, 59, 67, 75, 83

DHS detained each alien for removal proceedings under 8 U.S.C. § 1229a. Compl. ¶¶ 58-60, 66-68, 74-76, 82-84. DHS denied each Petitioner bond. *Id.* ¶ 4. Each requested a bond redetermination before an IJ. *Id.* ¶¶ 60, 68, 76, 84. In each case, the IJ concluded that they were not eligible for release on bond and were subject to mandatory detention under § 1225(b)(2)(A). *Id.* ¶¶ 61, 69, 77, 85.

Petitioners filed a habeas petition and class action complaint challenging the government's interpretation of the detention provisions at 8 U.S.C. § 1225(b)(2). Compl. Petitioners brought their claims on their behalf and on behalf of two putative classes: a Nationwide class[5] and an Adelanto class. Compl. ¶¶ 89, 94. Petitioners sought a temporary restraining order as to themselves requesting bond hearings. Dkt No. 5. This Court granted Petitioners' motion and ordered Defendants to provide them with bond hearings. Dkt No. 14. At these bond hearings, IJs granted each Petitioner release on bond. Dkt. No. 43. Petitioners have posted their immigration bonds and have been released from immigration detention. Dkt. No. 43.

On August 11, 2025, Petitioners moved for class certification of their two putative classes. Pls.' Mot. to Cert. Class, Dkt No. 41. That same day, before Defendants responded to the Complaint, Petitioners moved for partial summary judgment as to Counts I, II, and

[5] In their Amended Complaint, Petitioners name this class the "Bond Eligible Class." Am. Compl. ¶ 89. Defendants object to Petitioners' naming of the class as it frames the legal issue in dispute as a legal conclusion. Defendants propose this class be referred to as the Nationwide class instead.

III of their Complaint. Pls' Partial Mot. Summ. J., Dkt No. 42.

STANDARD OF REVIEW

The Court can only grant summary judgment if Petitioners "show[] that there is no genuine dispute as to any material fact and [they] [are] entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). An issue is "genuine" only if a sufficient evidentiary basis exists upon which a reasonable jury could find for the nonmoving party. *See*, *e.g.*, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248–49 (1986). A factual dispute is "material" only if it might affect the outcome of the suit under governing law. *See*, *e.g.*, *id.* at 248.

ARGUMENT

The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible and deportable aliens and to ensure that aliens who are removable are in fact removed from the United States. "[D]etention necessarily serves the purpose of preventing deportable [] aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that if ordered removed, the aliens will be successfully removed." *Demore v. Kim*, 538 U.S. 510, 528 (2003). The Supreme Court has long held that deportation proceedings "would be in vain if those accused could not be held in custody pending the inquiry" of their immigration status. *Wong Wing v. United States*, 163 U.S. 228, 235 (1896). Congress intended for all applicants for admission to be detained during the course of their removal proceedings. *See Jennings*, 583 U.S. at 299 (interpreting the "plain meaning" of sections 1225(b)(1) and (2) to mean that applicants for admission be mandatorily detained for the duration of their immigration proceedings).

I. The Bond Denial Claims Should Be Dismissed for Lack of Jurisdiction

"Federal courts are courts of limited jurisdiction, possessing only that power authorized by Constitution and statute." *Gunn v. Minton*, 568 U.S. 251, 256 (2013); *see also Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). "Subject matter jurisdiction is fundamental; [t]he defense of lack of subject matter jurisdiction cannot be waived, and the court is under a continuing duty to dismiss an action whenever it appears

that the court lacks jurisdiction." *Billingsley v. Comm'r*, 868 F.2d 1081, 1085 (9th Cir. 1989) (alteration in original) (quotations omitted); *see also* Fed. R. Civ. P. 12(h)(3).

The Court lacks subject matter jurisdiction over the Complaint because federal law limits—and in this case, forecloses—district court review of the Executive Branch's decisions and actions taken regarding the removal of aliens. *See*, *e.g.*, 8 U.S.C. § 1252(b)(9), (f)(1).

A. 8 U.S.C. § 1252(b)(9) bars review of the denial of bond.

Under § 1252(b)(9), "judicial review of all questions of law . . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an alien from the United States" is only proper before the appropriate court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999). Section 1252(b)(9) is an "unmistakable 'zipper' clause" that "channels judicial review of all [claims arising from deportation proceedings]" to a court of appeals in the first instance. *Id.*; *see Lopez v. Barr*, No. CV 20-1330 (JRT/BRT), 2021 WL 195523, at *2 (D. Minn. Jan. 20, 2021) (citing *Nasrallah v. Barr*, 590 U.S. 573, 579–80 (2020)).

Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means for judicial review of immigration proceedings. 8 U.S.C. § 1252(a)(5). "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the [petition-for-review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original); *see id.* at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they 'arise from' removal proceedings"); *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only when the action is "unrelated to any removal action or proceeding" is it within the district court's jurisdiction).

Critically, "[§] 1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D)

provides that "[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals." *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008). The petition-for-review process before the courts of appeals ensures that aliens have a forum for claims arising from their immigration proceedings and "receive their day in court." *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("The REAL ID Act of 2005 amended the [INA] to obviate . . . Suspension Clause concerns" by permitting judicial review of "nondiscretionary" BIA determinations and "all constitutional claims or questions of law.").

Sections (a)(5) and (b)(9) divest district courts of jurisdiction to review both direct and indirect challenges to removal orders, including decisions to detain for purposes of removal or for proceedings. *See Jennings*, 583 U.S. at 294–95 (section 1252(b)(9) includes challenges to the "decision to detain [an alien] in the first place or to seek removal[.]"). Here, the Complaint challenges the decision and action to detain Petitioners, which arises from DHS's decision to commence removal proceedings, and is thus an "action . . . to remove [them] from the United States." *See* 8 U.S.C. § 1252(b)(9); *see also*, *e.g.*, *Jennings*, 583 U.S. at 294–95; *Saadulloev v. Garland*, No. 3:23-CV-00106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) (recognizing that there is no judicial review of the threshold detention decision). As such, the Court lacks jurisdiction over this action. Petitioners must present their claims before the appropriate court of appeals because they challenge the government's decision or action to detain them, which must be raised before a court of appeals, not this Court. *See* 8 U.S.C. § 1252(b)(9).

B. 8 U.S.C. § 1252(e)(3)(A) bars review in this Court.

Challenges to 8 U.S.C. § 1225(b) are limited to the United States District Court for the District of Columbia ("D.D.C."). 8 U.S.C. § 1252(e)(3)(A). Petitioners' Complaint is clearly challenging § 1225(b). Dkt. 15 at 31, Prayer for Relief ("Declare that Defendants' policy and practice of denying consideration for bond on the basis of

§ 1225(b)(2) . . . violates the INA, its implementing regulations, the APA and the Due Process Clause"). The DC Circuit has held that challenges to implementation and policies related to § 1225(b) must be brought in the D.D.C. *See Make The Rd. New York v. Wolf*, 962 F.3d 612, 625 (D.C. Cir. 2020). The Ninth Circuit recognized that the limitation of challenges to policies under 1225(b) must be filed in the D.D.C. *See Singh v. Barr*, 982 F.3d 778, 783 (9th Cir. 2020).

Throughout their Complaint and Motion for Summary Judgment, Petitioners made clear that they challenge an alleged policy of detaining applicants for admission under § 1225(b). *E.g.*, Dkt. 42 at 2 (requesting the Court to "vacate DHS's and the Adelanto Immigration Court's new policies"); *see also id.* at 8 (referring to the "agencies' abrupt policy shift"). The statute indicates that only the D.D.C. can hear challenges to "a regulation, or written policy directive, written policy guideline, or written procedure" to § 1225(b). 8 U.S.C. § 1252(e)(3).

Any argument that § 1252(e)(3)'s restriction on review is limited to policies relating to expedited removal orders under 1225(b)(1) and not to policies relating to detention under 1225(b)(2) is meritless. Section 1252(e) has five paragraphs numbered 1 though 5. 8 U.S.C. § 1252(e). Paragraphs (1), (2), (4), and (5) specifically reference § 1225(b)(1), while paragraph (3) references all of § 1225(b). *Id*. The inclusion of "(b)(1)" in some paragraphs, but using just "(b)" in paragraph (3) shows that Congress wanted review of the three subsections of § 1225(b) to be limited to the D.D.C.

Thus, Petitioners' Motion fails at the outset; the Court lacks subject matter jurisdiction. *See Billingsley*, 868 F.2d at 1085.

II. Under the Statutory Text, Applicants for Admission Must Be Detained Pending the Outcome of Removal Proceedings

A. The plain text of the Statute means that aliens present in the country without having been admitted are applicants for admission.

The plain language of the statute is clear: Petitioners are subject to detention under § 1225(b)(2) because they are applicants for admission. *Matter of Yajure-Hurtado*, 29 I.

& N. Dec. 216, 220 (BIA 2025). The INA specifies that "an alien present in the United States who has not been admitted" "shall be deemed . . . an applicant for admission." 8 U.S.C. § 1225(a). Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings*, 583 U.S. at 287. As the Supreme Court indicated in *Jennings*, "[r]ead most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants of admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297. Despite the clear direction from the Supreme Court, Petitioners argue that there is some third category of applicants for admission that are not subject to mandatory detention. *Jennings*, 583 U.S. at 287. Section 1225(b)(1) covers which applicants for admission, including arriving aliens *or* aliens who have not been admitted and have been present for less than two years, and directs that both of those classes of applicants for admission are subject to expedited removal. 8 U.S.C. § 1225(b)(1). Section 1225(b)(2) "serves as a catchall provision that applies to all applicants not covered by 1225(b)(1) (with specific exceptions not relevant here)."[6] *Jennings*, 583 U.S. at 287. *Jennings* recognized that 1225(b)(2) mandates detention. *Id.* at 297; *see also Matter of Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) ("[A]n applicant for admission . . . whether or not at a port of entry, and subsequently placed in removal proceedings is detained under . . . 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond."). The IJs in these cases were correct in holding that § 1225(b) applied because Petitioners, present in the United States without being admitted, are applicants for admission. *See Yajure*, 29 I. & N. Dec. at 221.

Petitioners' argument that the phrase "seeking admission" limited the scope of § 1225(b)(2)(A) is unpersuasive. Courts "interpret the relevant words not in a vacuum, but with reference to the statutory context, 'structure, history and purpose'." *Abramski v. United States*, 573 U.S. 169, 179 (2014) (quoting *Maracich v. Spears*, 570 U.S. 48, 76 (2013)). The BIA has long recognized that "many people who are not actually requesting

[6] The two exceptions are crewmen and stowaways. *See* 8 U.S.C. §§ 1225(a)(2), 1281, and 1282(b).

permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under immigration laws." *Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012). Statutory language "is known by the company it keeps." *Marquez-Reyes v. Garland*, 36 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*, 579 U.S. 550, 569 (2016)). The phrase "seeking admission" in § 1225(b)(2)(A) must be read in the context of "applicant for admission" in § 1225(a)(1). Applicants for admission includes arriving aliens and aliens present without admission. *See* 8 U.S.C. § 1225(a)(1). Both are understood to be "seeking admission" under §1225(a)(1). *See Lemus*, 25 I. & N. at 743. Congress made clear that all aliens "who are applicants for admission or otherwise seeking admission" to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word "or" here "introduce[s] an appositive–a word or phrase that is synonymous with what precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *See United States v. Woods*, 571 U.S. 31, 45 (2013).

Petitioners' interpretation reads "applicant for admission" out of 1225(b)(2)(A). "[O]ne of the most basic interpretive canons" instructs that a "statute should be construed so that effect is given to all its provisions." *Corley v. United States*, 556 U.S. 303, 314 (2009). "Applicant" is defined as "[s]omeone who requests something; a petitioner, such as a person who applies for letters of administration." Black's Law Dictionary (12th ed. 2024). Applying the definition of "applicant" to "applicant for admission," an applicant for admission is an alien "requesting" admission, defined by statute as "the lawful entry of the alien into the United States after inspection." 8 U.S.C. § 1101(a)(13)(A). Petitioners proposed that "seeking admission" has a requirement of "doing something." Dkt. 42 at 18 (citing *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025), at 6–7). "Seeking admission" does not have a different meaning from applicant for admission ("requesting admission"); the terms are synonymous.

"The canon against surplusage is not an absolute rule." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013); *see also Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 299 n.1 (2006) ("While it is generally presumed that statutes do not contain

surplusage, instances of surplusage are not unknown"). "Sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance, either out of a flawed sense of style or to engage in the ill-conceived but lamentably common belt-and-suspenders approach." *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017) (quoting Antonin Scalia & Bryan A. Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 176–77 (2012) (emphasis in original)). "This is why the surplusage canon of statutory interpretation must be applied with statutory context in mind." *Id.* (citing Scalia & Garner, READING LAW 179); *see also Doe v. Boland*, 698 F.3d 877, 881 (6th Cir. 2012) (recognizing that the U.S. Code is "replete with meaning-reinforcing redundancies" including "null and void:," "arbitrary and capricious," "cease and desist," and "free and clear"). "[A]n alien who is an applicant for admission" and "an alien seeking admission" are functional synonyms. *See Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) ("That principle [that drafters do repeat themselves] carries extra weight where, as already explained, the arguably redundant words that the drafters employed—'rental' and 'lease'—are functional synonyms.") In *Doe v. Boland*, the Sixth Circuit determined that "any person who, while a minor, was a *victim* of a variety of sex crimes and *who suffers personal injury* as a result" in 18 U.S.C. § 2255 a "victim by definition is someone who suffers an injury" and Congress did not intend for those phrases to have separate meanings. *Doe*, 698 F.3d at 882. "If one possible interpretation of a statute would cause some redundancy and another interpretation would avoid redundancy, that difference in the two interpretations can supply a clue as to the better interpretation of a statute. But only a clue. Sometimes the better overall reading of the statute contains some redundancy." *Rimini St., Inc. v. Oracle USA, Inc.*, 586 U.S. 334 (2019). In Section 1225(b)(2), "an alien who is an applicant for admission" is by definition "an alien seeking admission."

Petitioners highlight an analogy from *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025), at *7, that "someone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few

minutes of a film would not ordinarily then be described as 'seeking admission' to the theater. Rather, that person would be described as already present there." Dkt. 42 at 18. But this analogy misses the point of a statutory defined term. "'When a statute includes an explicit definition, we must follow that definition,' even if it varies from a term's ordinary meaning." *Digital Realty Tr., Inc. v. Somers*, 583 U.S. 149 (2018) (quoting *Burgess v. United States*, 553 U.S. 124, 130 (2008)). If the legislature passed a statute stating that "someone who enters a movie theater without purchasing a ticket" shall be deemed as a person trying to purchase a ticket, then that person would, at least statutorily, be "seeking admission to the theater." The movie theatre analogy fails.

"[S]tatutory interpretations which would produce absurd results are to be avoided." *Arizona State Bd. For Charter Sch. v. U.S. Dep't of Educ.*, 464 F.3d 1003, 1008 (9th Cir. 2006). Petitioners propose that "seeking admission" requires "doing something." Dkt. 42 at 18 (citing *Martinez*, 2025 WL 2084238, at 6–7). Presumably once in removal proceedings, petitioners will seek relief from removal and therefore will be seeking admission. *See*, *e.g.*, *Ocampo-Duran v. Ashcroft*, 254 F.3d 1133, 1134–35 (9th Cir. 2001) (concluding that a post-entry adjustment of status is an admission). Petitioners reading would create an absurd result where an alien in removal proceedings, not subject to mandatory detention, would then be "seeking admission" and subject to mandatory detention when they filed for relief in immigration court, but not before seeking relief from removal. If petitioners contest this reading, then there would be no category of alien section 1225(b)(2) would apply to. Interpreting the statute as congress drafting a detention section that applies to no one is an absurd result.

Petitioners also argue that § 1225(b)(2) should only be applied to "arriving" aliens. Dkt. 42 at 22. But Congress did not refer to arriving aliens in § 1225(b)(2), while several sections of the INA use the term "arriving alien." *E.g.*, 8 U.S.C. § 1182(a)(9), 1229c, and 1231. "[W]e generally presume that Congress acts intentionally and purposely when it includes particular language in one section of a statute but omits it in another." *Intel Corp. Inv. Pol'y Comm. v. Sulyma*, 589 U.S. 178 (2020) (quoting *BFP v. Resol. Tr. Corp.*, 511

U.S. 531, 537 (1994)). Congress further limited expedited removal in § 1225(b)(1) to arriving aliens, both in the text of 1225(b)(1)(A) and in the heading of 1225(b)(1) ("Inspection of aliens arriving"). *See Almendarez-Torres v. United States*, 523 U.S. 224, 234 (1998) ("'[T]he title of a statute and the heading of a section' are 'tools available for the resolution of a doubt' about the meaning of a statute." (quoting *Bhd. of R. R. Trainmen v. Baltimore & O. R. Co.*, 331 U.S. 519, 528–529 (1947)). By including arriving aliens in § 1225(b)(1), as well as other sections of the INA, but not in § 1225(b)(2)(A), Congress did not intend to use "seeking admission" as meaning "arriving." *See Yajure*, 21 I. & N. Dec. at 228 (explaining that alien is applicant for admission regardless of time in the United States).

Petitioners' reliance on *Monsalvo Velazquez v. Bondi*, 145 S.Ct. 1232 (2025) is misplaced. Dkt. 42 at 15. In *Monsalvo Velazquez*, the "administrative construction" was a federal regulation that went through notice and comment specifically defining the calculation of days for a deadline. *Monsalvo Velazquez*, 145 S.Ct. 1232. Petitioners do not point to any regulation or BIA agency decision designated for precedent as containing their preferred "administrative construction."

Agency precedent has long recognized that if an "immigration officer concludes" that an inadmissible alien or conditionally admitted alien[7] "'is not clearly and beyond a doubt entitled to be admitted,' he or she must be detained for a removal proceeding." *See Matter of Jean*, 23 I. & N. Dec. 373, 381 (A.G. 2002) (citing 8 U.S.C. § 1225(b)(2)(A)). Under the plain language of the statute, Petitioners are subject to detention under § 1225(b)(2). *Yajure,* 21 I. & N. Dec. at 220–21.

B. Congress did not intend to place aliens who enter without inspection in a more favorable position than aliens who appear at ports of entry.

The Ninth Circuit disfavors construction of the INA that would provide "aliens who entered this country illegally [with] greater rights . . . than those who entered lawfully."

[7] *Matter of Jean* involved an alien conditionally admitted as a refugee applying for permanent residency. *See* 8 U.S.C. § 1159.

Gonzalez-Gonzalez v. Ashcroft, 390 F.3d 649, 652 (9th Cir. 2004) (holding that Congress did not intend to make aliens convicted of domestic violence who entered illegally eligible for cancellation of removal while specifically excluding aliens who had entered lawfully). The "IIRIRA amendments sought to ensure sensibly enough, that those who enter the country illegally, without proper inspection, are not treated more favorably under the INA than those who seek admission through proper channels, but are denied access." *Wilson v. Zeithern*, 265 F. Supp. 2d 628, 631 (E.D. Va. 2003). Petitioners' reading of the statute ignores the context and purpose of IIRIRA in the treatment of aliens present without inspection. *See Norfolk & W. Ry. Co. v. Am. Train Dispatchers Ass'n*, 499 U.S. 117, 129 (1991) (noting that interpretive canons must yield "when the whole context dictates a different conclusion); *see also U.S. Nat. Bank of Oregon v. Indep. Ins. Agents of Am., Inc.*, 508 U.S. 439, 455 (1993) ("In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy.").

The Supreme Court has long held that "the due process rights of an alien seeking initial entry" are no greater than "[w]hatever the procedures authorized by Congress." *Thuraissigiam*, 591 U.S. at 139 (citation omitted). For unadmitted aliens, like the Petitioners here, "the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law." *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892); *accord Thuraissigiam*, 591 U.S. at 138–140.[8]

To this end, the Supreme Court has also long applied the so-called "entry fiction" that all "aliens who arrive at ports of entry . . . are treated for due process purposes as if stopped at the border." *Thuraissigiam*, 591 U.S. at 139. Indeed, that is so "even [for] those paroled elsewhere in the country for years pending removal." *Id.* The Supreme Court has applied the entry fiction to aliens with highly sympathetic claims to having "entered" and

[8] Congress has chosen to provide aliens present without inspection, despite being applicants for admission, with the due process of full removal proceedings. *See* 8 U.S.C. § 1229a(a)(4). But with those full removal proceedings, Congress indicated that aliens present without inspection "shall be detained." 8 U.S.C. § 1225(b)(2)(A).

developed significant ties to this country. *See*, *e.g.*, *Kaplan v. Tod*, 267 U.S. 228, 230 (1925) (holding that a mentally disabled girl paroled into the care of relatives for nine years must be "regarded as stopped at the boundary line" and "had gained no foothold in the United States"); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 214–215 (1953) (holding that an alien with 25 years' of lawful presence who sought to reenter enjoyed "no additional rights" beyond those granted by "legislative grace"). With the backdrop of these cases, it follows that Congress intended for an unlawful entrant who violates immigration laws and evades detection must, once found, be "treated as if stopped at the border." *See Mezei*, 345 U.S. at 215.

Supreme Court precedents indicate that aliens who entered illegally by evading detection while crossing the border should be treated the same as those who were stopped at the border in the first place. *See Thuraissigiam*, 591 U.S. at 138–140. While aliens who have been admitted may claim due-process protections beyond what Congress has provided even when their legal status changes (*e.g.*, an alien who overstays a visa, or is later determined to have been admitted in error), *see Wong Yang Sung v. McGrath*, 339 U.S. 33, 49–50 (1950), the Supreme Court has never held that aliens who have "entered the country clandestinely" are entitled to such additional rights. *The Yamataya v. Fisher*, 189 U.S. 86, 1000 (1903). Congress has codified that distinction by treating all aliens who have not been admitted—including unlawful entrants who evade detection for years—as "applicants for admission." 8 U.S.C. § 1225(a)(1). In line with these cases and the statute, Congress created a detention system where applicants for admission, including those who entered the country unlawfully, are detained for removal proceedings under § 1225 and aliens who have been admitted to the country are detained under § 1226. It does not matter whether an alien was apprehended "25 yards into U.S. territory" or 25 miles, nor does it matter if he was here unlawfully and evades detection for 25 minutes or 25 years; when an alien has never been admitted to the country by immigration officers, his detention is no different from an alien stopped at the border. *See Thuraissigiam*, 591 U.S. at 139.

Petitioners point to the recent passage of the Laken Riley Act, Pub. L. No. 119-1,

January 29, 2025, 139 Stat 3, 139 Stat. 3 (2025)("LRA") as "Congress expressly reaffirmed that 1226(a) covers persons charged under 1182(a)(6)(A) or (a)(7)." Dkt. 42 at 13. Nothing in the LRA changes the analysis. Redundancies in statutory drafting are "common . . . sometimes in a congressional effort to be doubly sure." *Barton v. Barr*, 590 U.S. 222, 239 (2020). The LRA arose after an inadmissible alien "was paroled into this country through a shocking abuse of that power." 171 Cong. Rec. H278 (daily ed. Jan 22, 2025) (statement of Rep. McClintock). Congress passed it out of concern that the executive branch "ignore[d] its fundamental duty under the Constitution to defend its citizens." 171 Cong. Rec. at H269 (statement of Rep. Roy). "Congress may have simply intended to remove any doubt." *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 226 (2008). One member even expressed frustration that "every illegal alien is currently required to be detained by current law throughout the pendency of their asylum claims." 171 Cong. Rec. at H278 (statement of Rep. McClintock). The LRA reflects a "congressional effort to be doubly sure" that such unlawful aliens are detained. *Barton*, 590 U.S. at 239. The LRA does not change what Congress intended in IIRIRA. *See Almendarez-Torres v. United States*, 523 U.S. 224, 237 (1998) ("These later-enacted laws, however, are beside the point. They do not declare the meaning of earlier law. ... or a change in the meaning of an earlier statute."); *see also S. Dakota v. Yankton Sioux Tribe*, 522 U.S. 329, 355 (1998) ("'[T]he views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one.'") (quoting *United States v. Philadelphia Nat. Bank*, 374 U.S. 321, 348–349 (1963)). Nothing in the LRA requires that the alien who falls under § 1225(b)(2) be treated as an alien detained under § 1226(a). *Yajure-Hurtado*, 29 I. & N. Dec. at 221–22.

C. Under *Loper Bright*, the statute controls, not prior agency practices.

Any argument that prior agency practice applying § 1226(a) to Petitioners is unavailing because under *Loper Bright*, the plain language of the statute and not prior practice controls. *Yajure-Hurtado*, 29 I. & N. Dec. at 225–26. In overturning *Chevron*, the Supreme Court recognized that courts often change precedents and "correct[] our own mistakes" *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 411 (2024) (overturning

Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837 (1984)). *Loper Bright* overturned a decades old agency interpretation of the Magnuson-Stevens Fishery Conservation and Management Act that itself predated IIRIRA by twenty years. *Loper Bright Enterprises*, 603 U.S. at 380. Thus longstanding agency practice carries little, if any, weight under *Loper Bright*. The weight given to agency interpretations "must always 'depend upon their thoroughness, the validity of their reasoning, the consistency with earlier and later pronouncements, and all those factors which give them power to persuade.'" *Loper Bright Enterprises*, 603 U.S. at 432–33 (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) (cleaned up)).

Petitioners point to 62 Fed. Reg. at 10323, where the agency provided no analysis of its reasoning. The BIA's recent precedent decision in *Matter of Yajure-Hurtado* includes thorough reasoning. 29 I. & N. Dec. at 221–22. In *Yajure*, the BIA analyzed the statutory text and legislative history. *Id.* at 223-225. It highlighted congressional intent that aliens present without inspection be considered "seeking admission." *Id.* at 224. The BIA concluded that rewarding aliens who entered unlawfully with bond hearings while subjecting those presenting themselves at the border to mandatory detention would be an "incongruous result" unsupported by the plain language "or any reasonable interpretation of the INA." *Id.* at 228.

To be sure, "when the best reading of the statute is that it delegates discretionary authority to an agency," the Court must "independently interpret the statute and effectuate the will of Congress." *Loper Bright Enterprises*, 603 U.S. at 395. But "read most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297 (cleaned up). Prior practice does not support Petitioners' position that the plain language mandates detention under § 1226(a).

CONCLUSION

Congress intended for aliens present without inspection to be treated as applicants for admission. These aliens are subject to inspection like all other aliens are inspected.

Aliens who have been present without inspection for more than two years, like Petitioners, are entitled to full removal proceedings. But Congress directed that these aliens are subject to detention, without bond eligibility, for the course of proceedings. The court should deny Petitioners' Motion for Partial Summary Judgment.

Dated: September 12, 2025

Respectfully submitted,

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LOCAL RULE 11-6.2 CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants certifies that this brief contains 6998 words, which complies with the word limit of L.R. 11-6.1.

Dated: September 12, 2025

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CERTIFICATE OF SERVICE

I certify that on September 12, 2025, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will provide electronic notice pursuant to L.R. 5-3.2.1 to the following attorneys of record:

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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

Lazaro MALDONADO BAUTISTA, *et al.*,

Plaintiffs-Petitioners,

v.

Krist NOEM, Secretary, Dept. of Homeland Security, *et al.*,

Defendants-Respondents.

No. 5:25-cv-01873-SSS-BFM

DEFENDANTS' STATEMENT OF GENUINE DISPUTE OF MATERIAL FACT

Hearing Date: October 17, 2025
Hearing Time: 2:00 p.m.
Courtroom: 2
Judge: Sunshine S. Sykes

STATEMENT OF CONTROVERTED FACTS

Alleged Undisputed Fact and Evidence	Disputed/Undisputed Fact and Evidence
Defendants' Historical Practice and New Policy	
1. The Immigration and Nationality Act (INA) provides for the detention of certain noncitizens, including—as relevant to this case—under 8 U.S.C. § 1226(a) and § 1225(b)(2)(A). 8 U.S.C. § 1226(a); *id.* § 1225(b)(2)(A).	Disputed, to the extent Plaintiffs make any mischaracterization of the law. Undisputed as to the existence of the law, which authorizes detention of certain aliens. The relevant statute speaks for itself.
2. Detention under 8 U.S.C. § 1226(a) allows for release on bond by immigration authorities, *see* 8 C.F.R. 236.1(c)(8), and a "custody redetermination"—also known as a bond hearing—before an immigration judge (IJ) in the event the immigration authorities deny bond, see 8 C.F.R. § 1236.1(d). 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(c)(8), 1236.1(d).	Disputed, to the extent Plaintiffs make any mischaracterization of the law. Undisputed as to the existence of the law, which authorizes detention of certain aliens. The relevant statute speaks for itself.
3. By contrast, detention under 8 U.S.C. § 1225(b)(2)(A) is mandatory and provides no right to a bond hearing. A person detained pursuant to this subparagraph may only be released if an immigration officer grants humanitarian parole under 8 U.S.C. § 1182(d)(5). 8 U.S.C. § 1225(b)(2)(A); *id.* § 1182(d)(5).	Disputed to the extent Plaintiffs make any mischaracterization of the law. Undisputed as to the existence of the law, which authorizes detention of certain aliens. The relevant statute speaks for itself.
4. Prior to a May 22, 2025, unpublished Board of Immigration Appeals (BIA or Board) decision and Immigration and Customs Enforcement's (ICE) July 8, 2025,	Disputed and not material because prior agency practice is irrelevant to the interpretation of the statutory scheme at issue. *See* Defs' Resp. to Mot. Partial Sum. J.

detention directive, Defendants Department of Homeland Security (DHS), ICE, and the Adelanto Immigration Court considered anyone who entered the United States without inspection to be detained under 8 U.S.C. § 1226(a), unless that person was subject to the expedited removal provisions of 8 U.S.C. § 1225(b)(1) or the detention provisions of § 1226(c) or § 1231. Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997); 8 C.F.R. § 1003.19(h)(2); *Matter of R-A-V-P-*, 27 I. & N. Dec. 803–04 (BIA 2020); Decl. of Sydney Maltese Ex. A (unpublished BIA decisions applying § 1226(a) to persons who entered without inspection); Decl. of Lisa Knox ¶¶ 6–7; Decl. of Karla Navarrete ¶ 5; Decl. of Guadalupe Garcia ¶ 5; Decl. of Keli Reynolds ¶ 7; Decl. of Veronica Barba ¶ 6; Decl. of Emily Robinson ¶ 10; Decl. of Doug Jalaie ¶ 8.	
5. This interpretation has been consistent during the nearly thirty years that the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) has been in effect. Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997); 8 C.F.R. § 1003.19(h)(2); Matter of R-A-V-P-, 27 I. & N. Dec. 803–04 (BIA 2020); Maltese Decl. Ex. A (unpublished BIA decisions	Disputed to the extent Plaintiffs make any mischaracterization of the law and the history of its interpretation. There was no precedent agency decision on the issue. There is language in the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018) and from the agency in *Matter of Jean*, 23 I.&N. Dec. 373, 381 (A.G. 2002) supporting the interpretation. Undisputed as to the existence of the law, which authorizes detention of certain aliens. The relevant statute speaks for itself.

applying § 1226(a) to persons who entered without inspection); Knox Decl. ¶¶ 6–7; Navarrete Decl. ¶ 5; Garcia Decl. ¶ 5; Reynolds Decl. ¶ 7; Barba Decl. ¶ 6; Robinson Decl. ¶ 10; Jalaie Decl. ¶ 8.	
6. It was also true for the law in effect prior to IIRIRA. Under that removal and detention scheme, any person physically inside the United States (unless the person had been paroled) who faced removal was placed in "deportation" proceedings and was considered detained under 8 U.S.C. § 1252(a) (1994), which provided authority to release on bond. Separately, "exclusion" proceedings covered those who arrived at U.S. ports of entry and had never entered the United States. These proceedings had their own detention scheme. *See* 8 U.S.C. § 1225 (1994); *id.* § 1226 (1994).	Undisputed as to the existence of the law, Dispute, to the extent Plaintiffs make any mischaracterization of the law. The relevant statute speaks for itself.
7. On July 8, 2025, the Acting Director of ICE, Todd Lyons, issued a new policy entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission." Maltese Decl. Ex. B (ICE memo).	Disputed that the policy guidance was issued by Todd Lyons. The photos of a computer screen containing the alleged guidance do not ascribe the guidance to Tood Lyons. Maltese Decl. Ex. B (ICE memo). Dkt No. 41-3, pp. 16-17. Undisputed that there is a guidance document dated July 8, 2025.
8. Pursuant to the new policy, it is the "position of DHS" that anyone "who has not been admitted" is "subject to detention under [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by [8 U.S.C. § 1182(d)(5)] parole."	Disputed to the extent the quoted language is incomplete. The entire text is: "An 'applicant for admission' is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. [8 U.S.C. §

Maltese Decl. Ex. B (ICE memo).	1225(a)(1). **Effective immediately, it is the position of DHS that such aliens are subject to detention under [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by [8 U.S.C. § 1182(d)(5)] parole.**" Maltese Decl. Ex. B (ICE memo). Dkt No. 41-3, p 16. (bold in original).
9. According to Defendants, the result of this new position is that only noncitizens "admitted to the United States and chargeable with deportability under [8 U.S.C. § 1227]" are entitled to bond hearings, and that anyone who has not been admitted is "ineligible for a custody redetermination hearing ('bond hearing') before an [IJ] and may not be released for the duration of their removal proceedings absent a parole by DHS." This means that any person who entered the United States without inspection and who has not since been admitted is considered subject to 8 U.S.C. § 1225(b)(2)(A), regardless of how long the person has lived in the United States. Such persons will not be considered for release on bond. Maltese Decl. Ex. B (ICE memo).	Disputed to the extent this is a characterization of the policy guidance. Undisputed that the policy guidance explains DHS's position. The photo of the alleged guidance speaks for itself.
10. ICE's new policy was issued in "in coordination with the Department of Justice (DOJ)." Maltese Decl. Ex. B (ICE memo).	Undisputed.
11. DOJ includes the Executive Office for Immigration Review (EOIR), which administers the immigration court system. 8 C.F.R. § 1003.0(a)	Undisputed.

12. The BIA has recently taken the same position as ICE's new directive. On May 22, 2025, the BIA issued an unpublished decision holding that all noncitizens who entered the United States without admission or parole are considered "applicants for admission" who are "seeking admission" under 8 U.S.C. § 1225(b)(2)(A) and are therefore ineligible for IJ bond hearings. Maltese Decl. Ex. C (unpublished BIA decision).	Disputed to the extent Plaintiffs claim an unpublished BIA decision establishes the BIA's position on an issue. *See* BIA Practice Manual, § 4.6(d)(2) (November 14, 2022) (citation to unpublished decisions is discouraged and the BIA is not bound by those decisions); *see also* 8 C.F.R. § 1003.1(g). The BIA has since issued an opinion on the issue. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
13. Since the BIA's unpublished decision and the shift in DHS's position, the IJs of the Adelanto Immigration Court have adopted DHS's policy and legal interpretation. The Adelanto IJs now hold that any person who entered the United States without inspection is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Such persons will not be considered for release on bond. Maltese Decl. Exs. D–G (Named Plaintiffs' IJ bond decisions); Knox Decl. ¶¶ 3–5, 7; Navarrete Decl. ¶¶ 3–4; Garcia Decl. ¶ 3–4; Reynolds Decl. ¶ 3–6; Barba Decl. ¶ 3–5; Robinson Decl. ¶ 6–9; Jalaie Decl. ¶¶ 3–6; supra, Statement of Uncontroverted Facts ¶¶ 3, 8–9.	Disputed that all IJs who conducted bond hearings at the Adelanto Immigration Court had adopted the policy and legal interpretation. *See* Pls.' Mot. for Class Cert., Dkt No. 41, at 9 n. 2. Undisputed that IJs are bound to follow *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) in future adjudication of requests for bond.
14. A visiting IJ who is not a member of the Adelanto Immigration Court, but who hears some cases there through video conference, has not	Undisputed, but not material. In the future, IJs are bound to follow *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and deny bond to applicants for

adopted DHS's interpretation and has continued to provide bonds for detained noncitizens who entered without inspection. However, ICE has refused to release persons who are granted and post such bonds. Jalaie Decl. ¶ 7.	admission.
15. In other immigration courts throughout the United States, some IJs have continued to grant bond for persons who entered without inspection and who have since resided in the United States. However, in these cases, DHS has filed a Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination, and invoked the automatic stay provision of 8 C.F.R. § 1003.19(i)(2). As a result, these persons have not been able to post bond and have remain detained. Decl. of Juan Gonzalez Martinez ¶¶ 9, 11–12; Decl. of Roxana Cortes Mills ¶¶ 6–7; Pet. for Writ of Habeas Corpus, *Herrera Torralba v. Knight*, No. 2:25-cv-01366 (D. Nev. July 28, 2025), Dkt. 5 ¶¶ 57, 64, 65; Resp. to Pet. for Writ of Habeas Corpus, *Mayo Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC (D. Neb. Aug. 7, 2025), Dkt. 19 at 2–4.	Undisputed but not material. IJs are now bound to follow *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and deny bond to applicants for admission.
16. DOJ and EOIR—which oversee the immigration courts—have taken the position in litigation parallel to this case that individuals like Plaintiffs are subject to detention under § 1225(b)(2)(A). They have also since taken that position in this	Undisputed and not material.

litigation. Dkt. 8 at 11–15; Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–30.	
17. The result of Defendants' new policies is months of detention for those who file an application for relief and proceed to a merits hearing before an IJ. For those who subsequently appeal their decision to the BIA, recent data from EOIR produced pursuant to a Freedom of Information Act (FOIA) request reflects that the BIA, on average, takes over six additional months to adjudicate an appeal. During this entire time, a noncitizen subject to Defendants' new policies will remain detained unless ICE releases the person on humanitarian parole. Knox Decl. ¶¶ 8–10; Garcia Decl. ¶¶ 6–7; Reynolds Decl. ¶¶ 8–9; Barba Decl. ¶¶ 7–8; Robinson Decl. ¶¶ 12–14; Maltese Decl. Ex. H (EOIR FOIA data); *id.* Ex. B (ICE memo).	Not material. The factual times of additional delay are disputed. Plaintiffs base this statement of fact on anecdotal evidence and inadmissible lay opinion testimony under FRE 701 because the declarants testimony is based on specialized" knowledge of detention timeframes in removal proceedings but none of the declarants are certified as experts under FRE 702. *See* Knox Decl. ¶¶ 8–10; Garcia Decl. ¶¶ 6–7; Reynolds Decl. ¶¶ 8–9; Barba Decl. ¶¶ 7–8; Robinson Decl. ¶¶ 12–14. Disputed that the FOIA data demonstrates the BIA takes over six months to "adjudicate an appeal." Per the FIOA data cited, the BIA takes an average 190 days to "process" detained case appeals. Maltese Decl. Ex. H, Dkt No. 41-3 p. 51. It is not established by this citation that "processing time" is coextensive with "adjudication". Undisputed that while an alien subject to mandatory detention appeals an IJ decision, they remain subject to mandatory detention unless ICE releases the individual on humanitarian parole.
Plaintiff Lazaro Maldonado Bautista	
18. On June 6, 2025, Plaintiff Lazaro Maldonado Bautista was arrested by immigration authorities as part of a large-scale immigration enforcement action in Los Angeles. Maltese Decl. Ex. I (Maldonado I-	Undisputed that Plaintiff Lazaro Maldonado Bautista was arrested by immigration authorities on June 6, 2025. Disputed as to Plaintiffs' characterization of the scale of the operation, nothing in Maldonado Bautista's declaration

213); Decl. of Lazaro Maldonado Bautista ¶ 7.	establishes the scale of the operation. *See* Decl. of Lazaro Maldonado Bautista.
19. Mr. Maldonado's arrest records reflect that DHS issued him a "Warrant of Arrest." Maltese Decl. Ex. I (Maldonado I-213).	Disputed. The I-213 does not reflect the issuance of a "Warrant of Arrest." On the "Disposition" line it is listed as "Warrant of Arrest/Notice to Appear." Maltese Decl. Ex. I (Maldonado I-213), Dkt No. 41-3 pp. 53-55. Exhibit J, Dkt No. 41-3 pp. 57-59, is a Notice to Appear and not a Warrant of Arrest. It is unclear a Warrant of Arrest was issued.
20. Mr. Maldonado was subsequently detained at the Adelanto ICE Processing Center. Maltese Decl. Ex. I (Maldonado I-213); Maldonado Decl. ¶ 7.	Undisputed.
21. Following his arrest, DHS placed Mr. Maldonado in removal proceedings before the Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who allegedly entered the United States without inspection. Maltese Decl. Ex. J (Maldonado Notice to Appear (NTA)); Maldonado Decl. ¶ 8.	Undisputed.
22. ICE denied Mr. Maldonado release on bond, and he requested a bond redetermination hearing before an IJ. Maltese Decl. Ex. K (Maldonado Bond Record); Maldonado Decl. ¶ 9.	Undisputed.
23. Before the IJ, ICE argued that the IJ lacked jurisdiction to set bond for	Undisputed.

Mr. Maldonado and that he is detained under 8 U.S.C. § 1225(b)(2)(A). Maltese Decl. Ex. L (DHS Maldonado Bond Submission); Maldonado Decl. ¶ 9.	
24. On July 17, 2025, an Adelanto IJ issued a decision that the immigration court lacked jurisdiction to conduct a bond redetermination hearing because Mr. Maldonado is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Accordingly, Mr. Maldonado was denied release on bond. Maltese Decl. Ex. D (Maldonado IJ Bond decision); Maldonado Decl. ¶ 9.	Undisputed.
25. The bond record in Mr. Maldonado's bond proceedings and other documents reflect that: a. Mr. Maldonado has lived in Los Angeles, California for approximately four years. Maltese Decl. Ex. K at 82, 94–95, 97, 102, 105, 109 (Maldonado Bond Record); Maldonado Decl. ¶ 3. b. Mr. Lazaro has no criminal record. Maltese Decl. Ex. I (Maldonado I-213); Maldonado Decl. ¶ 6. c. Prior to his arrest, Mr. Maldonado had no previous contact with immigration authorities. Maltese Decl. Ex. I (Maldonado I-213).	Undisputed to the extent that Plaintiff Maldonado submitted evidence related to the subjects described in this paragraph, but disputed to the extent these documents "reflect" the facts listed in this paragraph, These alleged facts are also immaterial.

d. Mr. Maldonado has deep ties to the Los Angeles area, as he has several U.S. citizen family members who live in the area. Maltese Decl. Ex. K at 82, 99, 107 (Maldonado Bond Record); Maldonado Decl. ¶ 4. e. Mr. Maldonado has worked at the same company, Blue Dot USA, Inc., as a warehouse packer since 2021. Maltese Decl. Ex. K at 78, 94–95, 97 (Maldonado Bond Record); Maldonado Decl. ¶ 5. f. Mr. Maldonado's friends and family consider him a hard worker who is loving and respectful. Letters of support from his bond case indicate that his family and friends miss him dearly and that Mr. Maldonado will return to a supportive community if released. Maltese Decl. Ex. K at 97, 99, 102, 105, 107, 109, 112 (Maldonado Bond Record).	
Plaintiff Ana Franco Galdamez	
26. On June 19, 2025, Plaintiff Ana Franco Galdamez was arrested by immigration authorities as part of a large-scale immigration enforcement action in Los Angeles. Maltese Decl. Ex. M (Franco I-213); Decl. of Ana Franco Galdamez ¶ 7.	Undisputed that Plaintiff Ana Franco Galdamez was arrested by immigration authorities on June 19, 2025. Disputed as to Plaintiffs' characterization of the scale of the operation, nothing in Ana Franco Galdamez's declaration establishes the scale of the operation. *See* Decl. of Ana Franco Galdamez.

27. Ms. Franco's arrest records reflect that DHS issued him a "Warrant of Arrest." Maltese Decl. Ex. M (Franco I-213).	Disputed. The I-213 does not reflect the issuance of a "Warrant of Arrest." On the "Disposition" line it is listed as "Warrant of Arrest/Notice to Appear." Maltese Decl. Ex. M (Franco I-213), Dkt No. 41-3 pp. 114-17. Exhibit N, Dkt No. 41-3 pp. 119-21, is a Notice to Appear and not a Warrant of Arrest. There is no record a Warrant of Arrest was issued.
28. Ms. Franco was subsequently detained at the Adelanto ICE Processing Center. Maltese Decl. Ex. M (Franco I-213); Franco Decl. ¶ 7.	Undisputed.
29. Following her arrest, DHS placed Ms. Franco in removal proceedings before the Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged her with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who allegedly entered the United States without inspection. Maltese Decl. Ex. N (Franco NTA).	Undisputed.
30. ICE denied Ms. Franco release on bond, and she requested a bond redetermination hearing before an IJ. Maltese Decl. Ex. O (Franco Bond Record); Franco Decl. ¶ 9.	Undisputed.
31. Before the IJ, ICE argued that the IJ lacked jurisdiction to set bond for Ms. Franco and that she is detained under 8 U.S.C. § 1225(b)(2)(A). Maltese Decl. Ex. P (DHS Franco Bond Submission).	Undisputed.
32. On July 22, 2025, an Adelanto IJ	Undisputed.

issued a decision that the immigration court lacked jurisdiction to conduct a bond redetermination hearing because Ms. Franco is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Accordingly, Ms. Franco was denied release on bond. Maltese Decl. Ex. E (Franco IJ Bond decision); Franco Decl. ¶ 9.	
33. The bond record in Ms. Francos's bond proceedings and other documents reflect that: a. Ms. Franco has resided in the United States for over twenty years. Maltese Decl. Ex. O at 141 (Franco IJ Bond Record); Franco Decl. ¶ 3. b. Ms. Franco has no criminal record. Maltese Decl. Ex. M (Franco I-213); Franco Decl. ¶ 6. c. Prior to her arrest, Ms. Franco had no previous contact with immigration authorities. Maltese Decl. Ex. M (Franco I-213). d. Ms. Franco is the single mother of two U.S. citizen children who rely on her for financial support and who are about to begin college. Maltese Decl. Ex. O at 141-54, 162-64, 167, 169-73 (Franco IJ Bond Record); Franco Decl. ¶¶ 4-5, 10-11.	Undisputed to all to the extent that Plaintiff Franco submitted evidence related to the subjects described in this paragraph, but disputed to the extent these documents "reflect" the facts listed in this paragraph, and also immaterial. Disputed as to g. Franco indicates she had a consultation with her psychiatrist. Franco Decl. ¶ 12.

e. Prior to her arrest, Ms. Franco worked as a street vender to provide for her family. Franco Decl. ¶ 5. f. Ms. Franco recently completed treatment for breast cancer. Because of her detention, she missed an important follow up mammogram. Maltese Decl. Ex. O at 141, 175 (Franco IJ Bond Record); Franco Decl. ¶ 14. g. Ms. Franco also has not received her regular psychiatric care while in detention. Franco Decl. ¶ 12. h. Ms. Franco has diabetes, and the irregular food schedule in the detention center has significantly affected her sugar levels. On July 21, 2025, she passed out at the detention center and was hospitalized. She has not received any of the records related to her medical care and hospitalization. Maltese Decl. Ex. O at 183; Franco Decl. ¶ 13. i. Ms. Franco's family members and friends consider her to be a woman of integrity, who is an involved and loving mother and works hard to provide for her family as a single mother. She has been very involved in the life of her daughters, receiving	

recognition for her volunteer work in their activities. Maltese Decl. Ex. O at 154, 162–64, 167, 169–73 (Franco IJ Bond Record); Franco Decl. ¶¶ 5, 10.	
Plaintiff Ananias Pascual	
34. On June 6, 2025, Plaintiff Ananias Pascual was arrested by immigration authorities as part of a large-scale immigration enforcement action in Los Angeles. Maltese Decl. Ex. Q (Pascual I-213); Decl. of Ananias Pascual ¶ 7.	Undisputed that Plaintiff Pascual was arrested by immigration authorities on June 6, 2025. Disputed as to Plaintiffs' characterization of the scale of the operation, nothing in Plaintiff's declaration establishes the scale of the operation. *See* Pascual Decl.
35. Mr. Pascual's arrest records reflect that DHS issued him a "Warrant of Arrest." Maltese Decl. Ex. Q (Pascual I-213).	Disputed. The I-213 does not reflect the issuance of a "Warrant of Arrest." On the "Disposition" line it is listed as "Warrant of Arrest/Notice to Appear." Maltese Decl. Ex. Q (Pascual I-213), Dkt No. 41-3 pp. 204-06. Exhibit R, Dkt No. 41-4 p. 3, is a Notice to Appear and not a Warrant of Arrest. There is no record a Warrant of Arrest was issued.
36. Mr. Pascual was subsequently detained at the Adelanto ICE Processing Center. Pascual Decl. ¶ 7.	Undisputed.
37. Following his arrest, DHS placed Mr. Pascual in removal proceedings before the Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who allegedly entered the United States without inspection. Maltese Decl. Ex. R (Pascual NTA).	Undisputed.

38. ICE denied Mr. Pascual release on bond, and he requested a bond redetermination hearing before an IJ. Maltese Decl. Ex. S (Pascual Bond Record); Pascual Decl. ¶ 9.	Undisputed
39. Before the IJ, ICE argued that the IJ lacked jurisdiction to set bond for Mr. Pascual and that he is detained under 8 U.S.C. § 1225(b)(2)(A). Pascual Decl. ¶ 9.	Undisputed.
40. On July 15, 2025, an Adelanto IJ issued a decision that the immigration court lacked jurisdiction to conduct a bond redetermination hearing because Mr. Pascual is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Accordingly, Mr. Pascual was denied release on bond. Maltese Decl. Ex. F (Pascual IJ Bond decision); Pascual Decl. ¶ 9.	Undisputed.
41. The bond record in Mr. Pascual's bond proceedings and other documents reflect that: a. Mr. Pascual has resided in the United States for over twenty years. Maltese Decl. Ex. Q (Pascual I-213); id. Ex. S at 231–72 (Pascual Bond Record); Pascual Decl. ¶ 3. b. Mr. Pascual has no criminal record. Maltese Decl. Ex. Q (Pascual I-213); Pascual Decl. ¶ 6. c. Prior to his arrest, Mr. Pascual	Undisputed to the extent that Plaintiff Pascual submitted evidence related to the subjects described in this paragraph, but disputed to the extent these documents "reflect" the facts listed in this paragraph, and also immaterial.

had no previous contact with immigration authorities. Maltese Decl. Ex. Q (Pascual I-213). d. Mr. Pascual and his wife have four U.S. citizen children, who range in age from 10 months to ten years old. Maltese Decl. Ex. S at 274–79, 281–96, 308 (Pascual Bond Record); Pascual Decl. ¶ 4. e. Mr. Pascual's youngest child was recently admitted to the Children's Hospital of Los Angeles. Maltese Decl. Ex. S at 280 (Pascual Bond Record); Pascual Decl. ¶ 11. f. In addition to his immediate family, Mr. Pascual has six siblings who live in the United States. Maltese Decl. Ex. S at 302, 304, 308 (Pascual Bond Record); Pascual Decl. ¶ 4. g. Mr. Pascual has been employed by the same apparel company since 2016. Maltese Decl. Ex. S at 250, 253, 257, 260, 263, 266, 269, 272 (Pascual Bond Record); Pascual Decl. ¶ 5. h. Mr. Pascual's family and friends attest that Mr. Pascual is a kind, hardworking, and dedicated man and father whose separation from his family has been devastating.	

Maltese Decl. Ex. S at 302, 304, 306, 308, 310 (Pascual Bond Record).	
Plaintiffs Luiz Alberto De Aquino De Aquino	
42. On June 6, 2025, Plaintiff Luiz Alberto De Aquino De Aquino was arrested by immigration authorities as part of a large-scale immigration enforcement action in Los Angeles. Maltese Decl. Ex. T (De Aquino I-213); Decl. of Luiz De Aquino De Aquino ¶ 5.	Undisputed that Plaintiff Luiz Alberto De Aquino De Aquino was arrested by immigration authorities on June 6, 2025. Disputed as to Plaintiffs' characterization of the scale of the operation, nothing in Plaintiff's declaration establishes the scale of the operation. *See* De Aquino Decl.
43. Mr. De Aquino was subsequently detained at the Adelanto ICE Processing Center. De Aquino Decl. ¶ 6.	Undisputed.
44. Following his arrest, DHS placed Mr. De Aquino in removal proceedings before the Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with, inter alia, being inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) as someone who allegedly entered the United States without inspection. Maltese Decl. Ex. U (De Aquino NTA); De Aquino Decl. ¶ 6.	Undisputed.
45. ICE denied Mr. De Aquino release on bond, and he requested a bond redetermination hearing before an IJ. De Aquino Decl. ¶ 7.	Undisputed.
46. Before the IJ, ICE argued that the IJ lacked jurisdiction to set bond for	Undisputed.

Mr. De Aquino and that he is detained under 8 U.S.C. §1225(b)(2)(A). De Aquino Decl. ¶ 7.	
47. On July 21, 2025, an Adelanto IJ issued a decision that the immigration court lacked jurisdiction to conduct a bond redetermination hearing because Mr. De Aquino is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Accordingly, Mr. De Aquino was denied release on bond. Maltese Decl. Ex. G (De Aquino IJ Bond decision); De Aquino Decl. ¶ 7.	Undisputed.
48. The bond record in Mr. De Aquino's bond proceedings and other documents reflect that: a. Mr. De Aquino has resided in Los Angeles, California since 2022. Maltese Decl. Ex. V at 347–69 (De Aquino Bond Record); De Aquino Decl. ¶ 3. b. Mr. De Aquino has no criminal record. Maltese Decl. Ex. T (De Aquino I-213); De Aquino Decl. ¶ 4. c. Prior to his arrest, Mr. De Aquino had no previous contact with immigration authorities. Maltese Decl. Ex. T (De Aquino I-213). d. Mr. De Aquino has worked for the same apparel company since 2022. Maltese Decl. Ex. V at	Undisputed to the extent that Plaintiff De Aquino submitted evidence related to the subjects described in this paragraph, but disputed to the extent these documents "reflect" the facts listed in this paragraph. Also immaterial.

347–69 (De Aquino Bond Record); De Aquino Decl. ¶ 3. e. He has been together with his spouse for seventeen years and has been separated from her since his arrest. Maltese Decl. Ex. V at 371, 374–76, 378 (De Aquino Bond Record). f. Mr. De Aquino's friends attest to the fact that he is a hard-working and family-oriented man of character and integrity. Maltese Decl. Ex. V at 382, 384, 386, 388, 390, 392, 402 (De Aquino Bond Record).	
Result of Plaintiffs' Bond Hearings	
49. After this Court's order granting the Plaintiffs' motion for a temporary restraining order, Dkt. 14, each named Plaintiff received a bond hearing in immigration court at which the IJ found that each Plaintiff did not pose a flight risk or danger, and granted release on bond. Maldonado Decl. ¶ 12; Franco Decl. ¶ 16; Pascual Decl. ¶ 14; De Aquino Decl. ¶ 10.	Undisputed.
Additional Undisputed Facts	**Evidence**
50. Petitioners have posted their immigration bonds and have been released from immigration detention.	Stipulation to Cont. Aug. 29, 2025 Show Cause Hearing, Dkt. 50, McDermond Decl. ¶ 8. *See also* Order Denying Preliminary Injunction, Dkt. 58.

Dated: September 12, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 12, 2025, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system, which will provide electronic notice pursuant to L.R. 5-3.2.1 to the following attorneys of record:

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DATED: September 12, 2025

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