District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANGEL ROMULO DEL VALLE CASTILLO, *et al.*, Petitioners, v. CAMMILLA WAMSLEY, *et al.*, Respondents.	Case No. 2:25-cv-02054-TMC FEDERAL RESPONDENTS'[1] RETURN **Noted for consideration:** **November 7, 2025**

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioners for the duration of their removal proceedings pursuant to 8 U.S.C. § 1225(b). They wrongly claim that their detention is unlawful as they are part of the Bond Denial Class as certified by this Court in *Rodriguez Vasquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).[2] Because they were each apprehended upon arrival when they entered the United States, including one apprehension at a port of entry, the plain language of the class definition excludes their membership.

[1] Respondent Bruce Scott is not a federal employee and not represented by undersigned counsel.
[2] The Government is appealing this Court's order in *Rodriguez Vasquez*. *See* Case No. 3:25-cv-05240-TMC, Dkt. No. 71, Notice of Appeal.

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The plain language of the Immigration and Nationality Act ("INA") mandates that Petitioners – who are present in the United States without having been admitted – are correctly considered "applicants for admission" and therefore subject to detention under 8 U.S.C. § 1225(b). *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 statute is that Congress insured that all noncitizens would be inspected by immigration authorities by treating noncitizens who are present in the United States without having been inspected and admitted as applicants for admission. Noncitizens 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.

Accordingly, Federal Respondents respectfully request that the Court deny the habeas petition.

II. BACKGROUND

A. Legal Background

1. 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).[3] Section 1225(a)(1) was added to the INA as part of the Illegal

[3] 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).

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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 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 a noncitizen already physically present in the United States, whereas an exclusion hearing was against a noncitizen 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" noncitizens – those noncitizens "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 noncitizens 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, noncitizens who attempted to lawfully enter the United States were in a worse position than noncitizens 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,

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pt. 1, at 225 (explaining that Section 1225(a)(1) replaced "certain aspects of the current 'entry doctrine,'" under which noncitizens 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.

2. Detention Under 8 U.S.C. § 1225

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could "expedite removal of aliens lacking a legal basis to remain in the United States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) ("[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country."). Section 1225 applies to "applicants for admission" to the United States, who are defined as "alien[s] present in the United States who [have] not been admitted" or noncitizens "who arrive[] in the United States," whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)," both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287.

a. Section 1225(b)(1)

Section 1225(b)(1) applies to "arriving aliens" and "certain other" noncitizens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(1) allows for the expedited removal of any noncitizen "described in" Section 1225(b)(1)(A)(iii)(II), as designated by the Attorney General or Secretary of Homeland Security – that is, any noncitizen not "admitted or paroled into the United States" and "physically present" fewer than two years – who is inadmissible under

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Section 1182(a)(7) at the time of "inspection." *See* 8 U.S.C. § 1182(a)(7) (categorizing as inadmissible noncitizens without valid entry documents). Whether that happens at a port of entry or after illegal entry is not relevant; what matters is whether, when an officer inspects a noncitizen for admission under Section 1225(a)(3), that noncitizen lacks entry documents and so is subject to Section 1182(a)(7). The Attorney General's or Secretary's authority to "designate" classes of noncitizens as subject to expedited removal is subject to his or her "sole and unreviewable discretion." 8 U.S.C. § 1225(b)(1)(A)(iii); *see also American Immigration Lawyers Ass'n v. Reno*, 199 F.3d 1352 (D.C. Cir. 2000) (upholding the expedited removal statute).

The Secretary (and earlier, the Attorney General) has designated categories of noncitizens for expedited removal under Section 1225(b)(1)(A)(iii) on five occasions; most recently, restoring the expedited removal scope to "the fullest extent authorized by Congress." *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139 (Jan. 24, 2025). The notice thus enables the Department of Homeland Security ("DHS") "to place in expedited removal, with limited exceptions, aliens determined to be inadmissible under [8 U.S.C. § 1182(a)(6)(C) or (a)(7)] who have not been admitted or paroled into the United States and who have not affirmatively shown, to the satisfaction of an immigration officer, that they have been physically present in the United States continuously for the two-year period immediately preceding the date of the determination of inadmissibility," who were not otherwise covered by prior designations. *Id.*, at 8139-40.

Expedited removal proceedings under Section 1225(b)(1) include additional procedures if a noncitizen indicates an intention to apply for asylum[4] or expresses a fear of persecution, torture, or return to the noncitizen's country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. §

[4] Noncitizens must apply for asylum within one year of arriving in the United States, 8 U.S.C. § 1558(a)(2)(B), except if the noncitizen can demonstrate "extraordinary circumstances" that justify moving that deadline. *Id.* § 1558(a)(2)(D).

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235.3(b)(4). If the asylum officer or immigration judge does not find a credible fear, the noncitizen is "removed from the United States without further hearing or review." 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum officer or immigration judge finds a credible fear, the noncitizen is generally placed in full removal proceedings under 8 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8 C.F.R. § 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

Expedited removal under Section 1225(b)(1) is a distinct statutory procedure from removal under Section 1229a. Section 1229a governs full removal proceedings initiated by a notice to appear and conducted before an immigration judge, during which the noncitizen may apply for relief or protection. By contrast, expedited removal under Section 1225(b)(1) applies in narrower, statutorily defined circumstances – typically to individuals apprehended at or near the border who lack valid entry documents or commit fraud upon entry – and allows for their removal without a hearing before an immigration judge, subject to limited exceptions. For these noncitizens, DHS has discretion to pursue expedited removal under Section 1225(b)(1) or removal under Section 1229a. *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 524 (BIA 2011).

b. Section 1225(b)(2)

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* Under Section 1225(b)(2), a noncitizen "who is an applicant for admission" is subject to mandatory detention pending full removal proceedings "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 noncitizens to be released on bond, DHS has the sole discretionary authority to release any applicant for admission on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." *Id.* § 1182(d)(5)(A); *see Biden v.*

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Texas, 597 U.S. 785, 806 (2022).

3. Detention Under 8 U.S.C. § 1226(a)

Section 1226(a) provides for the arrest and detention of noncitizens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under Section 1226(a), DHS may, in its discretion, detain a noncitizen during his removal proceedings, release him on bond, or release him on conditional parole.[5] By regulation, immigration officers can release a noncitizen if he 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). A noncitizen can also request a custody redetermination (i.e., a bond hearing) by an immigration judge at any time before a final 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.

B. Factual Background

1. Angel Romula Del Valle Castillo

Castillo is a native and citizen of Guatemala who entered the United States without inspection through the Mexico – United States border on or about April 6, 2022 and was apprehended shortly thereafter. Booth Decl., ¶ 4; Lambert Decl., Ex. A, I-213 (dated Apr. 6, 2022). Due to his age, Castillo was deemed an unaccompanied child ("UAC") and transferred to the custody of the Department of Health and Human Services, Office of Refugee Resettlement ("ORR"). Booth Decl., ¶ 4. The following month, ORR released Castillo to his father's custody. *Id.*, ¶ 5; Lambert Decl., Ex. B, ORR Verification of Release.

[5] 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) (holding that because release on "conditional parole" under § 1226(a) is not a parole, the alien was not eligible for adjustment of status under § 1255(a)).

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On August 8, 2025, ICE took Castillo into custody. Booth Decl., ¶ 6; Lambert Decl., Ex. C, Form I-213 (dated Aug. 8, 2025). He was transferred to the Northwest ICE Processing Center ("NWIPC). Booth Decl., ¶ 6. DHS issued a Notice to Appear charging Castillo as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and (a)(7)(A)(i)(I). Booth Decl., ¶ 7; Lambert Decl., Ex. D, Notice to Appear. An immigration judge denied Castillo bond after finding that he is subject to mandatory detention under 8 U.S.C. § 1225(b). Lambert Decl., Ex. E, Bond Order. Castillo's removal proceedings remain ongoing with his next appearance scheduled for November 26, 2025. Booth Decl., ¶¶ 8-11.

Castillo has been in immigration detention for less than three months.

2. Jose Antonio De La Cruz Gonzalez[6]

Gonzalez is a native and citizen of Mexico who, on or about August 6, 2017, applied for admission into the United States with his family at the San Ysidro Port of Entry without valid entry documents. Booth Decl., ¶ 12; Lambert Decl., Ex. F, Notice to Appear (dated Aug. 1, 2018). He was placed in expedited removal proceedings as an arriving alien but obtained a positive credible fear finding. Booth Decl., ¶ 12. Gonzalez was released from ICE custody on parole. *Id.*, ¶ 13.

In 2018, DHS initiated immigration proceedings. Booth Decl., ¶ 14. In June 2024, the immigration court granted the parties joint motion to dismiss the proceedings without prejudice pursuant to DHS's prosecutorial discretion. *Id.*, ¶ 16.

On or about August 22, 2025, DHS detained Gonzalez and initiated immigration proceedings. Booth Decl., ¶¶ 17-22; Lambert Decl., Ex. G, Notice to Appear (dated Aug. 22, 2025). The immigration judge denied Gonzalez bond after finding that he is subject to mandatory

[6] Due to the expedited briefing schedule, undersigned counsel has not received or been able to review the A-file for this petitioner.

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detention under 8 U.S.C. § 1225(b). Lambert Decl., Ex. H. The immigration judge issued an alternative bond order of $7,500. *Id.* On October 24, 2025, DHS amended the notice to appear charging Gonzalez as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I) because he had presented himself at a port of entry without valid entry documents. Booth Decl., ¶ 22.

Gonzalez has been in immigration detention for less than three months.

3. Marta Escalante Perez[7]

Perez is a native and citizen of Guatemala who entered the United States without admission or parole through the Mexico – United States border on or about October 24, 2015 and was apprehended shortly thereafter. Booth Decl., ¶ 23. She was released a few days later on an Order of Recognizance. *Id.*, ¶ 24. In January 2023, the immigration court granted the parties joint motion to dismiss the proceedings without prejudice pursuant to DHS's prosecutorial discretion. *Id.*, ¶ 25.

On or about August 7, 2025, DHS took Perez into custody and issued a notice to appear charging her as removable under 8 U.S.C. § 1182(a)(6)(A)(i). Booth Decl., ¶ 26; Lambert Decl., Ex. I, Notice to Appear. Perez has filed applications for relief from removal. Booth Decl., ¶ 27. The immigration judge denied Perez bond after finding that she is subject to mandatory detention under 8 U.S.C. § 1225(b). Booth Decl., ¶ 28; Lambert Decl., Ex. J, Order of the IJ. The order specifies that Perez is not a member of the *Rodriguez Vasquez* class as she was apprehended immediately upon arrival. *Id.* On October 24, 2025, the immigration judge ordered that Perez be removed to Guatemala. Booth Decl., ¶ 29. Perez has appealed to the Board of Immigration Appeals ("BIA"). *Id.*

Perez has been in immigration detention for approximately three months.

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[7] Due to the expedited briefing schedule, undersigned counsel has not received or been able to review the A-file for this petitioner.

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4. Rebeca Esther Morales Fuenmayor

Fuenmayor is a native and citizen of Venezuela who entered the United States without admission or parole through the Mexico – United States border on or about May 30, 2024 and was apprehended shortly thereafter. Booth Decl., ¶ 30. DHS issued a notice to appear charging her as inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). Lambert Decl., Ex. K, Notice to Appear. She was released on an Order of Recognizance. *Id.*, ¶ 30.

On or about July 17, 2025, Fuenmayor was arrested by the Clackamas County Sheriff's Office. Booth Decl., ¶ 33. The following day, ICE took her into custody. Booth Decl., ¶ 34; Lambert Decl., Ex. L, Form I-213. The immigration judge has denied Gonzalez bond after finding that she is subject to mandatory detention under 8 U.S.C. § 1225(b). Lambert Decl., Ex. M, Bond Order. The immigration judge issued an alternative bond order of $7,500. *Id.* Gonzalez has since been ordered removed, which she has appealed to the BIA. Booth Decl., ¶ 36; Lambert Decl., Ex. N, Order.

Fuenmayor has been in immigration detention for less than four months.

5. Edvin Ramiro Matias Calmo

Calmo is a native and citizen of Guatemala who entered the United States without inspection through the Mexico – United States border on or about April 13, 2018 and was apprehended shortly thereafter. Booth Decl., ¶ 37; Lambert Decl., Ex. O, I-213 (dated Apr. 14, 2018). Due to his age, Calmo was deemed an UAC and transferred to the custody of ORR. Booth Decl., ¶ 37. On August 8, 2018, ORR released Calmo to his sister's custody. *Id.*, ¶ 38.

In 2018, DHS issued Calmo a notice to appear charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.*, ¶ 39. In 2021, Calmo was arrested twice leading to a conviction of Assault in the Fourth Degree, RCW § 9A.36.041. *Id.*, ¶¶ 40-41. He applied for relief from removal in 2023. *Id.*, ¶ 42. On or about January 7, 2025, an immigration judge terminated

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Calmo's immigration proceedings so that he could pursue his asylum application with U.S. Citizenship and Immigration Services ("USCIS"). *Id.*, ¶ 43; Lambert Decl., Ex. P.

On or about October 4, 2025, ICE took Calmo into custody and DHS issued a notice to appear charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). Booth Decl., ¶ 44; Lambert Decl., Ex. Q, Form I-213; Ex. R, Notice to Appear. An immigration judge denied Calmo bond after finding that he is subject to mandatory detention under 8 U.S.C. § 1225(b). Lambert Decl., Ex. S, Bond Order. The order specifies that Calmo is not a member of the *Rodriguez Vasquez* class as he was apprehended upon arrival. *Id.*

Castillo has been in immigration detention for approximately one month.

6. Hector Ramirez Garcia

Garcia is a native and citizen of Guatemala who entered the United States without inspection through the Mexico – United States border on or about April 13, 2018, and was apprehended shortly thereafter. Booth Decl., ¶ 47; Lambert Decl., Ex. T, I-213 (dated Dec. 8, 2021). Due to his age, Calmo was deemed an UAC and transferred to the custody of ORR. Booth Decl., ¶ 47. On August 8, 2018, ORR released Calmo to his uncle's custody. *Id.*, ¶ 49.

In 2018, DHS issued a notice to appear charging Garcia as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.*, ¶ 48. In March 2021, Garcia was granted Special Immigrant Juvenile Status, but there is no available visa. *Id.*, ¶ 50. In December 2021, an immigration judge granted the parties' joint motion to dismiss the immigration proceedings. *Id.*, ¶ 52; Lambert Decl., Ex. U, Order.

On or about October 6, 2025, U.S. Border Patrol took Garcia into custody and DHS issued a notice to appear charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and (a)(7)(A)(i)(I). Booth Decl., ¶ 54; Lambert Decl., Ex. V, Form I-213; Ex. W, Notice to Appear.

Garcia has been in immigration detention for approximately one month.

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III. ARGUMENT

A. Petitioners are not members of the *Rodriguez Vasquez* Bond Denial Class.

Petitioners incorrectly claim that they are *Rodriguez Vasquez* Bond Denial Class members. Pet., ¶ 7. The Bond Denial Class is defined as:

> Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who (1) have entered or will enter the United States without inspection, (2) *are not apprehended upon arrival*, (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing.

Rodriguez Vasquez, 2025 WL 2782499, at *6 (emphasis added). Because each Petitioner was apprehended upon their arrival to the United States, they cannot be members of the Bond Denial Class.

As an initial matter, Petitioner Gonzalez is not a *Rodriguez Vasquez* Bond Denial Class member because he did not enter without inspection and is detained pursuant to 8 U.S.C. § 1225(b)(1). On August 6, 2017, Gonzalez applied for admission into the United States at the San Ysidro Port of Entry. Booth Decl., ¶ 12; Lambert Decl., Ex. F, Notice to Appear (dated Aug. 1, 2018). He is therefore considered an arriving alien and is mandatorily detained pursuant to 8 U.S.C. § 1225(b)(1). 8 C.F.R. § 1001.1(q) ("Arriving alien" defined as "an applicant for admission coming or attempting to come into the United States at a port-of-entry" and "remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked."); 8 C.F.R. § 1003.19(h)(2)(i)(B) (immigration judge lacks jurisdiction to redetermine custody of arriving aliens in removal proceedings); 8 U.S.C. § 1225(b)(1).

For the remaining Petitioners, they concede that they were "apprehended shortly after arrival." Pet., ¶ 35. But they claim that because they were released following apprehension this initial apprehension is not relevant now. *Id.* However, the certified class definition does not

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support their assertion, and the definition should be strictly construed. "A class definition should be precise, objective, and presently ascertainable," though "the class need not be so ascertainable that every potential member can be identified at the commencement of the action." *O'Connor v. Boeing N. Am., Inc.*, 184 F.R.D. 311, 319 (C.D.Cal.1998) (internal quotations omitted).

The Bond Denial Class definition relates to an alien's entry into the United States and whether they are "apprehended upon arrival." *Rodriguez Vasquez*, 2025 WL 2782499, at *6. The definition does not speak to subsequent apprehensions after an alien has already entered the United States. Thus, this Court should only consider Petitioners' apprehension when entering the United States – which clearly excludes them from the Bond Denial Class.

Accordingly, this Court should review each Petitioner's detention separate from the Bond Denial Class.

B. Under the statutory text, noncitizens present in the United States without having been admitted are applicants for admission.

The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible and deportable noncitizens and to ensure that noncitizens 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).

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The plain language of the statute is clear: Petitioners are subject to detention under Section 1225(b) because they are applicants for admission. *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025). Section 1225(b)(1) indisputably requires the mandatory detention of arriving aliens for the duration of their credible fear determine determination and removal proceedings, even if they are subsequently paroled. 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 1001.1(q). Section 1225(b)(2)(A) requires mandatory detention of "an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted[]" 8 U.S.C. § 1225(b)(2)(A). The INA specifies that "[a]n alien present in the United States who has not been admitted . . . shall be deemed for purposes of this Act an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioners do not dispute that they are noncitizens who are present in the United States who have not been admitted. Thus, Petitioners are "applicants for admission" and subject to mandatory detention under Section 1225(b).

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

Any argument that prior agency practice applying Section 1226(a) to applicants for admission 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. Therefore, 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

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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)).

Petitioner points to 62 Fed. Reg. at 10323 to assert that the Immigration and Naturalization Service's ("INS") rule applied Section 1226 to "individuals who had entered without inspection." Pet., ¶¶ 40, 41. But the INS provided no analysis of its reasoning. In contrast, 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 223-25. It highlighted congressional intent that noncitizens present without inspection be considered "seeking admission." *Id.*, at 224. The BIA concluded that rewarding noncitizens 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 a position other than Petitioners' detention is mandated by Section 1225(b).

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DATED this 3rd day of November, 2025.

Respectfully submitted,

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I certify that this memorandum contains 4,491 words, in compliance with the Local Civil Rules.