# EXHIBIT A

**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals*
*Office of the Clerk*

*5107 Leesburg Pike, Suite 2000*
*Falls Church, Virginia 22041*

[redacted]

**DHS/ICE Office of Chief Counsel - TAC**
**1623 East J Street, Ste. 2**
**Tacoma WA 98421**

**Name** [redacted] **A** [redacted]**269**

**Date of this Notice: 5/22/2025**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

**NOT FOR PUBLICATION**

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

[redacted] A [redacted]269

Respondent

**FILED**
May 22, 2025

ON BEHALF OF RESPONDENT: [redacted]

IN BOND PROCEEDINGS

On Appeal from a Decision of the Immigration Court, Tacoma, WA

Before: Montante, Appellate Immigration Judge

MONTANTE, Appellate Immigration Judge

The respondent, a native and citizen of Guatemala, has appealed the Immigration Judge's April 4, 2025, order denying his request for custody redetermination. On April 7, 2025, the Immigration Judge issued a bond memorandum setting forth the reasons for his decision. The Department of Homeland Security ("DHS") has not responded to the appeal. The appeal will be dismissed.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

On February 22, 2025, the respondent was apprehended by immigration officers near Orlando, Florida (IJ at 1; Bond Exh. B-2 at 3). At that time, the respondent told the officers that he last entered the United States without admission or parole near Santa Teresa, New Mexico, on or about September 15, 2015 (IJ at 1; Exh. B-2 at 2). Immigration officers determined that the respondent was inadmissible under section 212(a)(6)(A)(i) of the INA, 8 U.S.C. § 1182(a)(6)(A)(i) (*Id.*).

We affirm the Immigration Judge's determination that he lacked authority to entertain the respondent's request for a change in custody status because he is subject to mandatory detention under section 235(b)(2)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b)(2)(A).

We agree with the Immigration Judge that the respondent is an "applicant for admission" despite having been in the United States for over 10 years since his alleged last illegal entry (IJ at 4-5). The INA defines an "alien present in the United States who has not been admitted" or "who arrives in the United States," whether or not at a port of entry, as an applicant for admission. INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). The Supreme Court of the United States has made clear that an alien "who tries to enter the country illegally is treated as an 'applicant for admission,'" under

section 235(a), "and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry'" for the purposes of the immigration laws or the Constitution. *DHS v. Thuraaissigiam*, 591 U.S. 103, 140 (2020) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). Applicants for admission "who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws." *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012).[1]

We are not persuaded by the respondent's appellate assertion that he is not subject to mandatory detention because DHS never placed him in expedited removal proceedings and instead initiated 240 removal proceedings (Respondent's Br. (unpaginated). While aliens arriving in the United States who are placed in expedited removal proceedings pursuant to section 235(b)(1)(A) of the INA, 8 U.S.C. § 1225(b)(1)(A), and who are referred for consideration of their asylum eligibility are ineligible for release on bond during the pendency of their asylum application because "section 235(b)(1)(B)(ii) requires detention until" the final adjudication of the asylum application. *Matter of M-S-*, 27 I&N Dec. at 516. All other aliens arriving in and seeking admission to the United States who are placed directly in full removal proceedings after failing to establish their admissibility pursuant to section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), are likewise subject to detention "until removal proceedings have concluded." *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018).

Thus, we affirm the Immigration Judge's determination that the respondent is subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and ineligible for bond.[2]

Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.

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[1] We need not decide whether the respondent is an "arriving alien" as defined by 8 C.F.R. § 1001.1(q), and thus ineligible for bond under 8 C.F.R. § 1003.19(h)(2)(i)(B), because he is an "alien . . . who arrives in the United States" under section 235(a)(1). *See Matter of Q. Li*, 29 I&N Dec. 66, 68, fn. 2 (BIA 2025), citing *Matter of M-S-*, 27 I&N Dec. 509, 518 (A.G. 2019) ("Section 1003.19(h)(2)(i) . . . does not provide an exhaustive catalogue of the classes of aliens who are ineligible for bond.").

[2] Given our determination that the respondent is subject to mandatory detention, we need not reach the Immigration Judge's alternative findings. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach."); *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal regarding ineligibility for relief where an applicant is otherwise statutorily ineligible for such relief).