District Judge Tana Lin
Magistrate Judge Michelle L. Peterson

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

PETRONA TOMAS MANUEL, *et al.*, Petitioners, v. LAURA HERMOSILLO, *et al.*, Respondents.	Case No. 2:25-cv-02353-TL-MLP FEDERAL RESPONDENTS'[1] RETURN Noted for Consideration: December 6, 2025

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioners Petrona Tomas Manuel, Eduard Isai Martinez Gamez, Martha Dalila Escoria Pineda, Maria Luisa Chocllo Ramos, and Carlos Fabian Navarrete Acosta at the Northwest ICE Processing Center ("NWIPC") pursuant to 8 U.S.C. § 1225(b).[2] The plain language of the Immigration and Nationality Act ("INA") mandates that Petitioners – who are present in the United States without having been admitted –

[1] Respondent Bruce Scott is not a federal employee and not represented by undersigned counsel.

[2] A court in this District has found that mandatory detention under Section 1225(b) is unlawful for certain noncitizens (the "Bond Denial Class"). *Rodriguez Vasquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). The Government has appealed this decision. *See* Case No. 3:25-cv-05240-TMC, Dkt. No. 71, Notice of Appeal. Petitioners are not part of the Bond Denial Class because they were apprehended upon arrival when they entered the United States.

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are correctly considered as "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.

Each Petitioner entered the United States separately and have no factual overlap. But the main facts in this case are undisputed. Petitioners were apprehended shortly after entering the United States without inspection or parole. They were subsequently released and participated in non-detained removal proceedings. In the last two months, ICE redetained each Petitioner separately. They assert that their redetention violates due process because they were not provided written notice and a pre-deprivation hearing. *See* Pet., ¶¶ 94-97.

This Return sets forth general law concerning Section 1225(b) and redetention. However, this brief does not provide individual factual analyses for each Petitioner. To do so, the U.S. Attorney's Office would have had to obtain five separate A-Files and then review those files, as well as work with ICE to investigate the facts and circumstances for five separate individuals. Unfortunately, the expedited briefing schedule issued (Dkt. No. 13) did not provide sufficient time for these actions to be accomplished.[3] This Office does not yet have Petitioners' A-Files and therefore refers the Court to the declaration and documents provided by ICE for the basic facts here. *See* Declaration of Christopher Sica.

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[3] The Court issued an "Order Granting Ex Parte Motion for Order to Show Cause and Issue Expedited Briefing Schedule." Dkt. No. 13. Given the timing, it is unclear if the Court considered Federal Respondents response to Petitioners' request for an expedited briefing schedule, which sought a longer briefing schedule, before issuing the Order. Dkt. No. 11.

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II. 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).[4] 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 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

[4] 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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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, 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.

B. Detention Under 8 U.S.C. § 1225(b)

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

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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.

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

III. ARGUMENT

Petitioners are applicants for admission subject to mandatory detention. 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

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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).

The plain language of the statute is clear: Petitioners are subject to detention under Section 1225(b) because they are applicant 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 without having been admitted. Thus, they are "applicants for admission" and subject to mandatory detention under Section 1225(b).

Pre-deprivation hearings to determine whether Petitioners were flight risks or dangerous were not required prior to their arrest. There is no statutory or regulatory requirement for a hearing before an individual in removal proceedings is redetained, and the Supreme Court has warned courts against reading additional procedural requirements into the Immigration and Nationality Act. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6) because "reviewing courts . . . are generally not free to impose [additional procedural rights] if the agencies have not chosen to grant them")

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(quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)).

Federal Respondents acknowledge that district courts have recently held that due process requires a pre-detention hearing to determine if a noncitizen is a flight risk or a danger to the community prior to redetention. *See, e.g., E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025). Respectfully, Federal Respondents disagree with these decisions. Each Petitioner is subject to mandatory detention. Thus, analyses of their potential flight risk or dangerousness would be irrelevant, and hearings would be futile.

Federal Respondents recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released from immigration detention have a protected liberty interest in remaining out of custody, the weight of that liberty must be considered in the broader picture of the immigration system, which has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After all, "[t]he recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 523.

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CONCLUSION

For the foregoing reasons, Federal Respondents respectfully request that this Court deny the Petition.

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Respectfully submitted,

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I certify that this memorandum contains 2,076 words, in compliance with the Local Civil Rules.