District Judge Lauren King
Magistrate Judge Grady J. Leupold

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

UTHAYACHANDRAN UTHAYAKUMAR, Petitioner, v. CAMMILLA WAMSLEY[1], *et al.*, Respondents.	Case No. 2:25-cv-01718-LK-GJL FEDERAL RESPONDENTS' HABEAS RETURN Noted for Consideration: November 5, 2025

I. INTRODUCTION

This Court should deny Petitioner Uthayachandran Uthayakumar's Petition for Writ of Habeas Corpus. Dkt. No. 1 ("Pet."). Petitioner contends that his mandatory detention and ineligibility for bond under 8 U.S.C § 1225(b)(1) (INA § 235) is unlawful because he was thereafter placed into removal proceedings pursuant to 8 U.S.C. § 1229(a) (INA § 240) after a credible fear interview. He is wrong. U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner because he is still subject to mandatory detention pursuant to 8 U.S.C.

[1] Pursuant to Federal Rule of Civil Procedure 25(d), Respondents substitute Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement Cammilla Wamsley for Drew Bostock.

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§ 1225(b)(1) notwithstanding his removal proceedings.[2]

The plain language of the Immigration and Nationality Act ("INA") mandates that Petitioner – who is present in the United States without having been admitted – is correctly considered an "applicant for admission" and therefore subject to detention under 8 U.S.C. § 1225(b)(1). *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."). That Petitioner was placed into removal proceedings pursuant to 8 U.S.C. § 1229(a) following a positive credible fear interview has no bearing on his mandatory detention. And, despite Petitioner's contention that he was denied a bond hearing by the Immigration Judge, records indicate that his counsel withdrew his request for bond.

Furthermore, Petitioner has failed to demonstrate that his mandatory detention pursuant to 8 U.S.C. § 1225(b)(1) violates the Due Process Clause of the Fifth Amendment. ICE lawfully detains Petitioner while he undergoes removal proceedings before the immigration court. His next scheduled hearing date is October 31, 2025, and he has not demonstrated that his continued detention without a bond hearing would be unreasonable. Accordingly, this Court should deny his request for a court-ordered individualized bond hearing and dismiss his Petition for Writ of Habeas Corpus in its entirety.

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[2] A court in this District recently issued an order finding that mandatory detention pursuant to 8 U.S.C. § 1225(b) is unlawful for the certified class. *Rodriguez Vazquez v. Bostock*, No. 25-5240-TMC, -- F. Supp. 3d --, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). The relevant class is defined as "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." *Id.*, at *27. Here, Petitioner is not a member of the class because he was apprehended upon arrival and is subject to detention under § 1225(b)(1). Dkt. 1, ¶¶ 15-16.

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II. BACKGROUND

A. 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).[3] 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

[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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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, 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)(1)

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.

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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 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 Am. Immigr. Laws. Ass'n v. Reno*, 199 F.3d 1352 (D.C. Cir. 2000) (upholding the expedited removal statute).

Expedited removal proceedings under Section 1225(b)(1) include additional procedures if a noncitizen indicates an intention to apply for asylum 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. § 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).

B. Factual Background

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Petitioner, a native and citizen of Sri Lanka, entered the United States at or near Tecate, California, on or about November 15, 2024. Pet., ¶ 15; *see also* Declaration of Delano Dumo ("Dumo Decl."), ¶ 4; Declaration of Kristen R. Vogel ("Vogel Decl."), Ex. A, Notice and Order of Expedited Removal. Petitioner was detained and processed for Expedited Removal under 8 U.S.C. § 1225 (INA § 235). Dumo Decl., ¶ 5. On or about December 2, 2024, Petitioner was transferred to the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington where he is presently detained. Pet., ¶ 17.

On February 3, 2025, following a credible fear interview with a positive result, Petitioner was served with a Notice to Appear that charges him with removability pursuant to 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I). Dumo Decl., ¶ 6; Vogel Decl., Ex. B, Notice to Appear; Pet., ¶ 16. He was then placed in removal proceedings under 8 U.S.C. § 1229(a) (INA § 240) as an "alien present in the United States who has not been admitted or paroled." Ex. B to Vogel Decl. Petitioner does not claim to have been admitted or paroled into the United States or that he has lawful status.

The Tacoma Immigration Court has jurisdiction over Petitioner's proceedings. Petitioner appeared for an initial master calendar hearing before an Immigration Judge ("IJ") on February 27, 2025. Dumo Decl., ¶ 7. The master calendar hearing was continued at Petitioner's request. *Id.* He also withdrew his request for a bond hearing. *Id.*, Ex. C to Vogel Decl., Bond Order.

Petitioner appeared for a continued master calendar hearing on April 2, 2025. Dumo Decl., ¶ 8. The court set his case for a final individualized hearing on May 27, 2025. *Id.* On May 27, 2025, the court held an individual hearing on Petitioner's request for relief from removal. *Id.*, ¶ 9. After several hours of testimony, Petitioner's case was reset to be completed at a future date. *Id.* Currently, Petitioner's hearing is scheduled to resume on October 31, 2025. *Id.*, ¶ 10.

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On September 5, 2025, Petitioner filed the instant habeas litigation. He raises two claims. First, he claims that his prolonged detention violates his right to Due Process. Pet., ¶¶ 53-60. Second, he claims that the arriving alien statute mandating detention, 8 U.S.C. § 1225(b)(1), does not apply to those who are placed into removal proceedings pursuant to 8 U.S.C. § 1229(a). Pet., ¶¶ 61-65.

III. ARGUMENT

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).

A. 8 U.S.C. § 1225(b)(1) mandates Petitioner's detention for the duration of his removal proceedings.

Petitioner does not dispute that he was lawfully detained pursuant to 8 U.S.C. § 1225(b)(1) after he illegally entered the United States, was arrested, and was found to be inadmissible and ordered removed (via expedited proceedings) from the United States. Vogel Decl., Ex. A. Rather, Petitioner appears to argue that he was no longer subject to § 1225(b)(1)'s mandatory detention because he was subsequently placed into removal proceedings following a credible fear interview

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thus making him eligible and entitled to bond. Pet., ¶¶ 16, 50-52, 63. To support his argument, Petitioner relies solely on language in the Notice to Appear stating that his § 1225(b)(1) order was "vacated pursuant to 8 CFR 208.30." Vogel Decl., Ex. B, Pet., ¶¶ 56-57.[4]

Other than his vague assertion stating otherwise, Petitioner provides no statutory support for his argument that once he is in removal proceedings under 8 U.S.C. § 1229a (INA § 240), he is no longer subject to mandatory detention. In fact, Petitioner's argument ignores the plain language of the statute which states that persons who are detained under § 1225(b)(1) as "aliens arriving in the United States and certain other aliens who have not been admitted or paroled," like Petitioner, who are then determined to have a credible fear of persecution, like Petitioner, "*shall be detained* for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii) (emphasis added); *see also Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) (an alien who is transferred from expedited removal proceedings to full removal proceedings after establishing a credible fear of persecution or torture is ineligible for release on bond. Such an alien must be detained until his removal proceedings conclude, unless he is granted parole). Accordingly, Petitioner's detention is lawful.

B. Petitioner's continued detention without a bond hearing does not violate his Fifth Amendment Due Process rights.

As discussed above, Petitioner is detained under 8 U.S.C. § 1225(b), which mandates detention of arriving aliens seeking admission to the United States. In *Jennings*, the Supreme Court considered whether 8 U.S.C. § 1225(b) imposes a time-limit on the length of mandatory detention. *See Jennings*, 583 U.S. at 297-303. It ultimately held that "nothing in the statutory text imposes any limit on the length of detention." *Id.* at 303. The Court further clarified that Section 1225(b)

[4] The § 1225(b)(1) *expedited* order of removal was in fact vacated. This is irrelevant to whether or not Petitioner is subject to mandatory detention.

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detainees may be released only through discretionary parole under 8 U.S.C. § 1182(d)(5). *Id.* at 300. While *Jennings* forecloses any statutory or categorical constitutional right to a bond hearing under Section 1225(b), it did not reach the issue of whether prolonged detention without such a hearing could, in individual cases, raise a due process concern.

Courts in this District use a multi-factor test to determine whether prolonged detention violates due process. *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1116 (W.D. Wash. 2019). In *Banda*, the district court found that the petitioner's 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had become unreasonable. *Id.* at 1117-121. To conduct this analysis, the court analyzed six factors: (1) length of detention; (2) how long detention is likely to continue absent judicial intervention; (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the petitioner; (5) the nature and extent of any delays caused by the government; and (6) the likelihood that the final proceedings will culminate in a final order of removal. *See id.* An analysis of these factors demonstrates that Petitioner's detention, while prolonged, has not become unreasonable.

First, the length of Petitioner's detention is eleven months. The Court should note that the current length of his detention has not reached the length of what many courts have found to be unreasonable. *See Hong v. Mayorkas*, No. 20-cv-1784, 2021 WL 8016749, at *5 (W.D. Wash. June 8, 2021), *report and recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022) (collecting cases finding prolonged detention from 13 months to 32 months without a court-ordered bond hearing to have become unreasonable). Therefore, at worst, this factor should be neutral.

Second, the length of Petitioner's future detention should favor Federal Respondents. A continuation of his asylum hearing is currently scheduled for October 31, 2025. Dumo Decl., ¶ 10. If his application for asylum is granted, his detention could end soon after the hearing date. If his

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application is denied, ICE will have a final order of removal that will allow for Petitioner's removal. Accordingly, the second *Banda* factor should favor Federal Respondents.

As for the third *Banda* factor, Petitioner is detained at the NWIPC. He asserts he suffers from severe and worsening mental health consequences due to his prolonged confinement and "conditions of detention" but he does not provide any details about why the conditions have led to his suffering other than separation from his family (who, upon information and belief, are not in the United States) and a general language barrier. Pet., ¶ 22. This favor should therefore weigh in favor of Federal Respondents.

The fourth *Banda* factor assesses delays in the removal caused by the petitioner and the fifth *Banda* factor assess delays caused by the respondent. Here, Petitioner was subject to expedited removal until he applied for asylum. The asylum hearing took place on May 27, 2025, but was continued because testimony was not completed in the time the immigration court had allotted. Dumo Decl., ¶ 9; Pet., ¶ 20. While Petitioner is entitled to seek relief from removal, the pursuit of such relief does not, standing alone, render mandatory detention unconstitutional. The Supreme Court has upheld the government's authority to detain aliens without bond throughout removal proceedings – even when they are pursuing relief. *See Demore*, 538 U.S. at 531. There is also no assertion that the government has delayed Petitioner's removal proceedings. Therefore, these factors, taken together, are neutral.

The last *Banda* factor weighs the likelihood that removal proceedings will result in a final order of removal. Petitioner has a pending Application for Asylum and Withholding of Removal (Form I-589). Pet., ¶ 19. But his hearing has not completed and the IJ has not yet ruled on his application. While the government has a very strong case to obtain a final order of removal if his asylum application is denied, this Court should find this factor to be speculative.

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Accordingly, this Court should find that Petitioner's continued detention without a court-ordered bond hearing does not violate Due Process. If this Court does find that Petitioner's continued detention violates Due Process, the only remedy should be an individualized bond hearing conducted by an IJ. Petitioner cites to no legal basis for immediate release absent a bond hearing, and "courts in this Circuit have regularly found that the IJ is the proper authority to conduct bond hearings and determine a detainee's risk of flight or dangerousness to the community." *Doe v. Becerra*, 697 F. Supp. 3d 937, 948 (N.D. Cal. 2023)), *appeal dismissed*, No. 24-332, 2025 WL 252476 (9th Cir. Jan. 15, 2025).

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IV. CONCLUSION

Congress intended for noncitizens present without inspection, including Petitioner, to be treated as applicants for admission. Thus, Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(1) and subject to mandatory detention notwithstanding his ongoing removal proceedings. Petitioner also fails to show that his continued detention without an individualized bond hearing violates Due Process. For the foregoing reasons, Federal Respondents respectfully request that this Court deny the habeas petition.

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DATED this 8th day of October, 2025.

Respectfully submitted,

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I certify that this memorandum contains 3,201 words, in compliance with the Local Civil Rules.