

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JOSE AGUILAR GONZALES,	:	
	:	
Petitioner,	:	
	:	Case No. 4:25-CV-304-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER, ¹	:	
	:	
Respondent.	:	

RESPONDENT'S MOTION TO DISMISS

On September 26, 2025, Petitioner filed a petition for a writ of habeas corpus (“Petition”). ECF No. 1. On October 1, 2025, the Court ordered Respondent to file a response to the Petition within twenty-one (21) days. ECF No. 3. Respondent now files this Motion to Dismiss showing the Court that the Petition should be dismissed or, alternatively, denied.

BACKGROUND

Petitioner is a native and citizen of Mexico. Declaration of Deportation Officer (“DO”) Hal Waters (“Waters Decl.”) ¶ 4 & Ex. A. On an unknown date and in an unknown location, Petitioner entered the United States without inspection. *Id.* & Ex. A. On August 13, 2025, Immigration and Customs Enforcement (“ICE”)/Enforcement and Removal Operations (“ERO”) encountered Petitioner during a joint Federal Bureau of Investigation (“FBI”) and ERO operation. *Id.* ¶ 6 & Ex.

¹ In addition to Warden of Stewart Detention Center, Jason Streeval, Petitioner also names Immigration and Customs Enforcement (“ICE”) Atlanta Field Office Director Ladeon Francis, acting Director of ICE Todd Lyons, Secretary of the Department Homeland Security Kristi Noem, and Attorney General Pamela Bondi as Respondents in his Petition. “[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

A. On August 14, 2025, ICE/ERO issued Petitioner a Notice to Appear (NTA) charging him as inadmissible pursuant to Immigration and Nationality Act (“INA”) § 212(a)(6)(A)(i) (8 U.S.C. § 1182(a)(6)(A)(i)). *Id.* ¶ 7 & Ex. B. Petitioner was scheduled for an initial master hearing on August 29, 2025. *Id.* From August 13, 2025 to August 26, 2025, Petitioner was detained in Atlanta, Georgia. Waters Decl. ¶ 8. On August 26, 2025, Petitioner was transferred to Stewart Detention Center (“SDC”) in Lumpkin, Georgia. *Id.*

On August 26, 2025, the Stewart Immigration Court scheduled a custody redetermination hearing. *Id.* ¶ 9 & Ex. C. Petitioner was not produced for that hearing because he had not yet arrived at SDC. *Id.* & Ex. D. On August 28, 2025, DHS issued a Form I-261 adding an additional charge of inadmissibility pursuant to INA § 212(a)(7)(A)(i)(I) (8 U.S.C. § 1182(a)(7)(A)(i)(I)). *Id.* ¶ 10 & Ex. E. On the same day, Petitioner, through counsel, filed written pleadings admitting and conceding to inadmissibility as charged in the NTA. *Id.* ¶ 11 & Ex. F.

On August 29, 2025, Petitioner appeared with counsel for a master calendar hearing, at which hearing Petitioner requested time to file applications for relief. Waters Decl. ¶ 12. The case was continued until September 30, 2025 for that purpose. *Id.* & Ex. G. On September 9, 2025, the Immigration Court scheduled a custody redetermination hearing. *Id.* ¶ 13 & Ex. H. Petitioner appeared with counsel. *Id.* The Immigration Judge denied the request for custody redetermination. *Id.* ¶ 13 & Ex. I. On September 30, 2025, Petitioner appeared with counsel for a master calendar hearing, filed an application for cancellation of removal, Form EOIR 42-B, and requested additional time to gather evidence. *Id.* ¶ 14. The case was continued to October 23, 2025. Waters Decl. ¶ 14 & Ex. J.

Petitioner is currently detained at Stewart Detention Center under the authority of 8 U.S.C. § 1225(b)(2). *Id.* ¶ 5. Petitioner was taken into ICE/ERO custody on August 13, 2025. *Id.* In the

event Petitioner becomes subject to a final order of removal to Mexico, ICE/ERO will be able to effectuate his removal to Mexico. *Id.* ¶ 15. Mexico is open for international travel and is issuing travel documents to facilitate removals of Mexican nationals. *Id.* ICE/ERO is currently removing non-citizens to Mexico. *Id.*

LEGAL FRAMEWORK

Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. It is the interplay between these statutes that is at issue here.

“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.” *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Section 1225 governs inspection, the initial step in this process, *id.*, stating that all alien “applicants for admission . . . shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). The statute—in a provision entitled “ALIENS TREATED AS APPLICANTS FOR ADMISSION”—dictates who “shall be deemed for purposes of this chapter an applicant for admission,” defining that term to encompass *both* an alien “present in the United States who has not been admitted *or* [one] who arrives in the United States” *Id.* § 1225(a)(1) (emphasis added).

Paragraph (b) of § 1225 governs the inspection procedures applicable to all applicants for admission. They “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. Section 1225(b)(1) applies to those “arriving in the

United States” and “certain other”² aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.* § 1225(b)(1)(A)(i), (iii). Aliens falling under this subsection are generally subject to expedited removal proceedings “without further hearing or review.” *See id.* § 1225(b)(1)(A)(i). But where the applicant “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer him or her for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An applicant “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is “found not to have such a fear,” he is detained until removal from the United States. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is “broader” than (b)(1), “serv[ing] as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Jennings*, 583 U.S. at 287. Subject to exceptions not applicable here, “if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall* be detained for a removal proceeding.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added); *see also Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). DHS retains sole discretionary authority to temporarily release on parole “any alien applying for admission” on a “case-by-case basis for urgent humanitarian

² The “certain other aliens” referred to are addressed in § 1225(b)(1)(A)(iii), which gives the Attorney General sole discretion to apply (b)(1)’s expedited procedures to an alien who “has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility,” subject to an exception inapplicable here. The statute therefore explicitly confirms application of its inspection procedures for those already in the country, including for a period of years.

reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

“Even once inside the United States, aliens do not have an absolute right to remain here. For example, an alien present in the country may still be removed if he or she falls ‘within one or more . . . classes of deportable aliens.’ §1227(a).” *Jennings*, 583 U.S. at 288 (citing 8 U.S.C. § 1227(a), which outlines “classes of deportable aliens” among those already “in *and admitted* to the United States”) (emphasis added)). “Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal.” *Id.* Applicable “[o]n a warrant issued by the Attorney General,” it provides that an alien may be arrested and detained pending a decision” on the removal. 8 U.S.C. § 1226(a). For aliens arrested under §1226(a), the Attorney General and the DHS have broad discretionary authority to detain an alien during removal proceedings.³ *See* 8 U.S.C. § 1226(a)(1) (DHS “may continue to detain the arrested” alien during the pendency of removal proceedings).

Following apprehension under § 1226(a), a DHS officer makes an initial discretionary determination concerning release. *See* 8 C.F.R. § 236.1(c)(8). DHS “may continue to detain the alien.” 8 U.S.C. § 1226(a)(1). “To secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*,

³ Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General’s authority—delegated to immigration judges, *see* 8 C.F.R. § 1003.19(d)—to detain, or authorize bond for aliens under section 1226(a) is “one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings.” *Matter of D-J-*, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

22 I. & N. Dec. 1102, 1113 (BIA 1999)). If DHS decides to release, it may set a bond or condition the release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8).

If DHS determines that an alien detained under § 1226(a) should remain detained during the pendency of his removal proceedings, the alien may request a bond hearing before an immigration judge. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The immigration judge conducts a bond hearing and decides whether release is warranted, based on a variety of factors that account for ties to the United States and risks of flight or danger to the community. *See Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (identifying nine non-exhaustive factors); 8 C.F.R. § 1003.19(d) (“The determination . . . as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].”).

Section 1226(a) does not grant “any *right* to release on bond.” *Matter of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson*, 342 U.S. at 534). Nor does it address the applicable burden of proof or particular factors that must be considered. *See generally* 8 U.S.C. § 1226(a). Rather, it grants DHS and the Attorney General broad discretionary authority to determine, after arrest, whether to detain or release an alien during his removal proceedings. *See id.* If, after the bond hearing, either party disagrees with the decision of the immigration judge, that party may appeal that decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3).

ARGUMENT

Petitioner does not assert distinct claims in his Petition. Instead, he requests the court grant a writ of habeas corpus ordering Petitioner’s immediate release, or, alternatively, declare 1) that the Board of Immigration Appeals’ decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) “is unlawful and should not be accorded deference by this court and that an [Immigration] Judge has jurisdiction to render a decision on the Petitioner’s Motion for Bond; and 2) Compel

[the Immigration Court] to provide Petitioner an expedited bond hearing.” Pet. 10. Petitioner further asks the Court to make a number of declarations: (1) “that Petitioner’s detention violates the [INA];” (2) that “Petitioner’s detention violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution;” (3) that “Petitioner’s detention violates the Non-Detention Act, 18 U.S.C. § 4001;” and (4) that the “legal interpretation in [*Hurtado*] is unlawful and should not be accorded deference by this court[.]” *Id.*

As explained more thoroughly below, the scope of Petitioner’s claims is unclear. As a remedy, Petitioner requests release from custody or, in the alternative, a bond hearing before an IJ. Pet. 10 (requests for relief). The Petition should be dismissed as to all claims and requests. Specifically, Petitioner makes no legal argument in support of his request for a declaration that his detention violates due process. Therefore, he fails to state a claim regarding that request.⁴ Further, 8 U.S.C. § 1252(e)(3) divests this Court of jurisdiction to consider Petitioner’s challenge to the implementation of § 1225(b)(2). Alternatively, in the event the Court determines that it retains jurisdiction, Petitioner is properly detained pursuant to § 1225(b)(2) and his petition should be denied on this basis.⁵

⁴ Because Petitioner makes no argument in support of this request, Respondent does not address it in depth. Petitioner has offered no basis upon which to find a due process violation and therefore he fails to state a claim. *See* Fed. R. Civ. P. 12(b)(6). As Petitioner is represented by counsel, his Petition is not entitled to a liberal construction like it would if he were proceeding *pro se*. However, in the event the Court construes the Petition as asserting a due process claim, Respondent respectfully requests the opportunity to supplement with a more detailed response.

⁵ Petitioner also requests certain declarations from the Court. For the reasons discussed herein as to the application of § 1225(b)(2) to Petitioner, the request for declarations on these topics should be denied. With regard to the contention about the Non-Detention Act, Petitioner’s contention is without merit because the Non-Detention Act (18 U.S.C. § 4001(a))—by its plain language—applies only to U.S. citizens, and Petitioner does not claim U.S. citizenship.

I. The Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(e)(3).

At its most basic, the Petition challenges the implementation of § 1225(b)(2) and the concomitant denial of a bond hearing based on the mandatory detention provisions of that section. Petitioner seeks judicial review of ICE/ERO and the immigration courts' interpretation of § 1225(b)(2) and their determination that he falls within its scope. Pet. 5-10. However, the Court lacks jurisdiction over this claim pursuant to 8 U.S.C. § 1252(e)(3). That section bars this Court from conducting “judicial review of determinations under section 1225(b) of this title and its implementation.” 8 U.S.C. § 1252(e)(3). Rather, only the U.S. District Court for the District of Columbia is vested with jurisdiction to judicially review the implementation of § 1225(b). *Id.* Unlike other provisions within § 1252(e), subsection (e)(3) applies broadly to judicial review of § 1225(b)—not just determinations under § 1225(b)(1). *Compare* 8 U.S.C. § 1252(e)(2) (limiting “[j]udicial review of any determination made under section 1225(b)(1)” (emphasis added)) *with id.* § 1252(e)(3) (limiting [j]udicial review of determinations made under section 1225(b)” (emphasis added)).

Thus, Petitioner's challenge to the implementation of the detention authority pursuant to § 1225(b)(2) must be brought in the U.S. District Court for the District of Columbia within 60 days of such implementation. *See* 8 U.S.C. § 1252(e)(3)(B). Because § 1252(e)(3) vests jurisdiction only in the District of Columbia, this Court lacks jurisdiction, and Petitioner's claim should be dismissed on this basis.

II. Petitioner is subject to mandatory detention without a bond hearing under the plain language of 8 U.S.C. § 1225(b)(2).

In the alternative, even assuming the Court finds it retains jurisdiction—which it should not—the Petition should be denied because Petitioner is validly detained pursuant to § 1225(b)(2) under the plain language of that subsection. As a result, Petitioner's request for either release or a

bond hearing should be denied because his detention is mandatory and § 1226(a)—including its accompanying bond procedures—does not govern his detention.

On September 5, 2025, the BIA issued a precedential decision in *In the Matter of Yajure-Hurtado*, affirming that under the plain language of section 1225(b)(2), aliens present in the United States without admission, like Petitioner here, are subject to mandatory detention without a bond hearing during their removal proceedings. 29 I&N Dec. 216 (B.I.A. 2025). For the same reasons as the BIA determined § 1225(b)(2) applies in *Hurtado*, the Court should reject Petitioner’s argument that § 1226(a) governs his detention instead of § 1225(b)(2).⁶

Petitioner is an “applicant for admission” under § 1225(a)(1). *See* Waters Decl. ¶ 5. He nonetheless argues that, unlike other applicants for admission, he cannot be subjected to § 1225(b)(2)’s mandatory-detention provision because he has been present in the interior of the United States. Pet. 9-10. This circumstance, however, does not change his status as an applicant for admission, and therefore he is mandatorily detained pursuant to § 1225(b)(2).

The plain language of section 1225(b)(2) dictates that Petitioner falls within its scope. *See Lowery v. Ala. Power Co.*, 483 F.3d 1184, 1199 (11th Cir. 2007) (“In interpreting a statute, we look first to the statute’s plain meaning . . .”). Statutory language “is known by the company it keeps.” *United States v. Dawson*, 64 F.4th 1227, 1237 (11th Cir.), *cert. denied*, 144 S. Ct. 343 (2023) (quoting *Yates v. United States*, 574 U.S. 528, 537, (2015)). “Seeking admission” and “appl[ying] for admission,” in this context, are plainly synonymous. Congress linked these two variations of the same phrase in § 1225(a)(3), which requires all aliens “who are applicants for admission or otherwise seeking admission” to be inspected by immigration officers. 8 U.S.C. §

⁶ To be clear, Respondent is not asking the Court to apply *Hurtado* here. Respondent’s argument is that the reasoning underlying *Hurtado* is correct and counsels the finding that Petitioner is appropriately detained under the authority of § 1225(b)(2).

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’).” *United States v. Woods*, 571 U.S. 31, 45 (2013). As a result, a person “seeking admission” is just another way of saying someone is applying for admission—that is, he is an “applicant for admission”—which includes both those individuals arriving in the United States and those already present without admission. *See* 8 U.S.C. § 1225(a)(1); *Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012).

Congress used the simple phrase “arriving alien” throughout much of § 1225. *See, e.g.*, 8 U.S.C. §§ 1225(a)(2), (b)(1), (c), (d)(2). That phrase plainly distinguishes an alien presently in, or recently “arriving” in, the United States from other “applicants for admission” who, like Petitioner, have been present in the United States without having been admitted. But Congress *did not* use the word “arriving” to limit the scope of § 1225(b)(2)’s mandatory-detention provision. 8 U.S.C. § 1225(b)(2). If Congress meant to limit § 1225(b)(2)’s scope to “arriving” aliens, it could have simply used that phrase, like it did in § 1225(b)(1). Instead, Congress used the phrase “alien seeking admission” as a plain synonym for “applicant for admission.”

Beyond the plain language, the statutory structure of § 1225(b) also supports this interpretation. To be sure, § 1225(b)(1) applies to applicants for admission who are “arriving in the United States” and provides for expedited removal proceedings. It also contains its own mandatory-detention provision applicable during those expedited proceedings. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Section 1225(b)(2), by contrast, applies to “other” aliens—“in the case of an alien who is an applicant for admission”—those *not* subject to expedited removal under (b)(1). They too “shall be detained” but instead for a more typical removal “proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). Properly understood, § 1225(b) applies to two groups of “applicants for admission”: (b)(1) applies to “arriving,” or recently arrived, aliens

who must be detained pending *expedited* removal proceedings; and (b)(2) is a “catchall provision that applies to all applicants for admission not covered by § 1225(b)(1),” *Jennings*, 583 U.S. at 287, who, like Petitioner, “shall be detained for a [*non-expedited*] proceeding under section 1229a of this title,” 8 U.S.C. § 1225(b)(2). A contrary interpretation limiting (b)(2) to “arriving” aliens would render it redundant and without any effect.

A comparison of § 1225’s mandatory-detention provisions to the discretionary-detention provisions of § 1226 further bolsters this conclusion. Unless there is a conflict, a specific provision governs over a more general provision encompassing that same matter. *See Nitro-Lift Technologies, LLC v. Howard*, 568 U.S. 17, 21 (2012); *Bloate v. U.S.*, 559 U.S. 196, 207–08 (2010). Section 1226(a) applies to aliens “arrested and detained pending a decision” on removal. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, is narrower, applying only to aliens who are “applicants for admission,”—a specially defined subset of aliens that explicitly includes those “present in the United States who ha[ve] not been admitted.” *Id.* § 1225(a). *See also Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (“§ 1225(a) treats a specific class of aliens as ‘applicants for admission,’ and § 1225(b) mandates detention of these aliens throughout their removal proceedings. Section 1226(a), by contrast, states in general terms that detention of aliens pending removal is discretionary unless the alien is a criminal alien.”). Because Petitioner falls squarely within the definition of individuals deemed to be “applicants for admission,” the specific detention authority under § 1225(b) governs over the general authority found at § 1226(a).

The U.S. District Court for the District of Massachusetts recently confirmed that an alien, unlawfully present in the country for approximately 20 years, was nonetheless an “applicant for admission.” *See Pena v. Hyde*, Civ. Action No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025). The court explained this resulted in the “continued detention” of an alien during removal

proceedings as commanded by statute. *Id.*; *see also, Chavez v. Noem*, -- F.Supp.3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (finding § 1225(b)(2) applicable to the petitioners and denying a TRO for failure to show likelihood of success). The BIA has long recognized that “many people 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.” *Lemus-Losa*, 25 I. & N. Dec. at 743.

“[C]ourts need not examine legislative history if the meaning of the statute is plain.” *United States v. Florida*, 938 F.3d 1221, 1245 (11th Cir. 2019). Indeed, “in interpreting a statute a court should always turn first to one, cardinal canon before all others.” *Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253-54 (1992). The Supreme Court has “stated time and again that courts must presume that a legislature says in a statute what it means and means in a statute what it says there.” *Id.* (citations omitted). Thus, “[w]hen the words of a statute are unambiguous, then, this first canon is also the last: ‘judicial inquiry is complete.’” *Id.* (citing *Rubin v. United States*, 449 U.S. 424 at 430 (1981)).

Even if legislative history were relevant, the text of a law controls over purported legislative intentions. *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022). Indeed, the legislative history and evidence regarding the purpose of § 1225(b)(2) show that Congress did not mean to treat aliens arriving at ports of entry worse than those who successfully entered the nation’s interior without inspection. *See Hurtado*, 29 I&N Dec. at 222–25. Congress passed IIRIRA to correct “an anomaly whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc), *declined to extend by, U.S. v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024). It “intended to replace certain aspects of the

[then-]current ‘entry doctrine,’ under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry.” *Id.* (quoting H.R. Rep. 104-469, pt. 1, at 225).

The Court should reject Petitioner’s interpretation because it rewards non-citizens—like him—who “crossed the border unlawfully,” by making them bond-eligible, unlike arriving aliens, “who present themselves for inspection at a port of entry.” *Id.* In other words, aliens who presented at ports of entry in compliance with the law would be subject to mandatory detention under § 1225, while those who crossed without inspection would be eligible for bond under § 1226(a). Such an outcome would contradict Congress’ stated intent in passing IIRIRA and lead to an absurd result.

For the reasons discussed above, Petitioner is properly classified as an “applicant for admission,” and under a plain reading of the statutes, he is mandatorily detained during the pendency of his removal proceedings pursuant to § 1225(b). Those proceedings are ongoing, and upon issuance of a final order of removal, Petitioner’s detention authority will adjust accordingly. If the Court reaches Petitioner’s claim regarding the application of § 1225(b)(2) to him, that claim should be denied.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court dismiss the Petition for failure to state a claim and lack of jurisdiction. Alternatively, Respondent respectfully requests the Court deny the Petition.

Respectfully submitted, this 22nd day of October, 2025.

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