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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GIOVANNY FERNANDO MUGLIZA
CASTILLO,

Petitioner,

v.

TODD LYONS, *Acting Director, U.S.*
Immigration and Customs
Enforcement, et al.,

Respondents.

HON. MICHAEL E. FARBIARZ, U.S.D.J.

Civil Action No. 25-16219 (MEF) (MAH)

RESPONDENTS' ANSWER TO PETITION FOR
A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

On the Brief:

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PRELIMINARY STATEMENT

On June 12, 2025, U.S. Immigration and Customs Enforcement (“ICE”) detained Petitioner, and the Department of Homeland Security (“DHS”) initiated removal proceedings for his presence in the United States without admission or parole. Petitioner now brings a habeas action under 28 U.S.C. § 2241, alleging that the Immigration and Nationality Act (“INA”) and Due Process Clause require ICE to release him. The Court should dismiss or deny the petition. Petitioner’s detention is lawful under 8 U.S.C. § 1225(b), and Petitioner’s mandatory detention under § 1225(b) comports with due process. Even if it did not, the appropriate remedy is a bond hearing rather than immediate release. For the reasons below, Respondents respectfully submit that the Court should dismiss or deny the petition.

BACKGROUND

I. Petitioner’s Immigration History

Petitioner is a native and citizen of Ecuador who entered the United States outside a designated port of entry on December 2, 2022. *See* Ex. A, Notice to Appear (“NTA”); ECF No. 1 (“Pet.”), ¶¶ 15, 43. DHS apprehended Petitioner on or about December 2, 2022, and detained him until December 4, 2022, before releasing Petitioner on parole into the United States under 8 U.S.C. § 1182(d) until February 8, 2023. Ex. B, Parole Document; *see also* 8 C.F.R. § 212.5(e)(1)(ii) (“Parole shall be automatically terminated without written notice ... if [the alien has] not departed, at the expiration of the time for which parole was authorized”).

Petitioner alleges that he has lived in New Jersey ever since. *See* Pet. ¶ 43.

On June 12, 2025, ICE arrested and issued Petitioner a Notice to Appear charging him with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as “an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” NTA; *see also* Pet. ¶¶ 44-45. On the same date, ICE issued Petitioner a Form I-200, Warrant for Arrest of Alien, as well as Form I-286, Custody Determination, indicating that ICE was then detaining Petitioner pursuant to 8 U.S.C. § 1226(a). *See* Ex. C, I-286; *see also* Ex. D, I-200. And on July 3, 2025, ICE brought an additional charge against Petitioner under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an inadmissible alien “who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required” under the INA. *See* Ex. E, Form I-261.

On July 8, 2025, DHS issued interim guidance regarding the detention authority for all applicants for admission. *See* ECF No. 1-1, at 4-5 (“Interim Guidance Regarding Detention Authority for Applicants for Admission”). The guidance indicated that DHS had “revisited its legal position on detention and release authorities,” and “effective immediately,” all applicants for admission—including those present without admission—are subject to mandatory detention under 8 U.S.C. § 1225(b). *See id.*

On August 21, 2025, an immigration judge issued an order which confirmed Petitioner is removable under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(a)(i)(I), while also granting Petitioner’s application for an adjustment of status. *See* Ex. F, IJ

Order.¹ On September 22, 2025, DHS timely appealed the immigration judge’s order granting the adjustment of status. *See* Ex. G, Notice of Appeal; *see also* Ex. H, Filing Receipt. The immigration judge’s decision, therefore, is not considered administratively final, and the effect of the decision is stayed, while the appeal to the Board of Immigration Appeals is pending. *See* 8 C.F.R. § 1003.6 (“[T]he decision in any proceeding ... from which an appeal to the [BIA] may be taken shall not be executed during the time allowed for the filing of an appeal unless a waiver of the right to appeal is filed, nor shall such decision be executed while an appeal is pending or while a case is before the Board by way of certification.”).

II. Procedural History

On October 3, 2025, Petitioner filed this petition for a writ of habeas corpus, challenging his detention under 8 U.S.C. § 1225(b)(2)(A). According to Petitioner, the proper authority for his detention arises under a different provision, 8 U.S.C. § 1226(a), and so his detention under 8 U.S.C. § 1225(b)(2)—which, unlike 1226(a), is mandatory and does not provide for a bond hearing—violates both the INA and the Due Process Clause. *See* Pet. ¶¶ 51-57. Petitioner asks the Court to declare his detention unlawful, and seeks immediate release or, in the alternative, a bond hearing. *See Id.* at Prayer for Relief. On the same date the petition was filed, the Court directed a response to the petition by October 7, 2025, at 5:00 p.m.

¹ In November of 2024, Petitioner married a United States citizen, *id.* ¶ 47, and, after being placed in removal proceedings, filed an application with the immigration court for an adjustment of status based on that marriage.

STANDARD OF REVIEW

28 U.S.C. § 2241(c)(3) authorizes a court to grant a writ of habeas corpus where a prisoner “is in custody in violation of the Constitution or laws or treaties of the United States.” Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, which is applicable to § 2241 petitions through Rule 1(b), provides this Court with the authority to dismiss a habeas petition if it “plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief.” *See also Moncrieffe v. Yost*, 367 Fed. Appx. 286, 288 n.2 (3d Cir. 2010) (noting summary dismissal of a § 2241 habeas petition is appropriate pursuant to Rule 4 of the Rules Governing Section 2254 Cases). “Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face.” *McFarland v. Scott*, 512 U.S. 849, 856 (1994) (citing 28 U.S.C. § 2254, Rule 4).

ARGUMENT

The Court should dismiss the petition because Petitioner’s detention is lawful. As discussed below, the plain text of the INA demonstrates that Petitioner is correctly considered an “applicant for admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2), while his detention also comports with due process.

I. Petitioner is Properly Detained Under 8 U.S.C. § 1225(b)(2)

Where, as here, the question is one of statutory interpretation, “we start where we always do: with the text of the statute.” *Van Buren v. United States*, 593 U.S. 374, 381 (2021). 8 U.S.C. § 1225(a)(1) applies to “applicants for admission,” which Congress defined as any “alien[s] present in the United States who [have] not been

admitted” or “who arrive[] in the United States.” 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).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

8 U.S.C. § 1225(b)(1) applies to arriving aliens and “certain other” aliens “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); *see* 8 C.F.R. § 1.2 (defining “arriving alien”). These aliens are generally subject to expedited removal proceedings, unless they indicate an intention to apply for asylum or other forms of relief. *See* 8 U.S.C. § 1225(b)(1)(A)(i), (ii). If the alien does not indicate an intent to apply for asylum, does not express a fear of persecution, or does not “have such a fear” after inquiry by an officer, she is detained until removed. *Id.* §1225(b)(1)(A)(i), (B)(iii)(IV).

8 U.S.C. § 1225(b)(2)—which ICE argues applies to Petitioner—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 § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “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).²

² Still, DHS has the sole discretionary authority to temporarily release on parole “any alien applying for admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

In this case, ICE issued Petitioner a Notice to Appear on the basis that he is “an alien present in the United States without being admitted” in violation of 8 U.S.C. § 1182(a)(6)(A)(i). *See* NTA. Petitioner, therefore, is an “applicant for admission” under 8 U.S.C. § 1225(a)(1). He is thus subject to mandatory detention per 8 U.S.C. § 1225(b)(2)(A). *See Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657, at *1 (E.D. Va. Aug. 5, 2025) (holding alien paroled in August 2021 and re-detained in May 2025 was “applicant for admission” subject to detention under § 1225(b); *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025) (upholding detention under §1225(b)(2) of alien “present in the country but [who] has not yet been lawfully granted admission”).

Petitioner’s argument that 8 U.S.C. § 1226(a) provides the sole authority for his present detention, *see* Pet. ¶¶ 24-42, is mistaken.³ At the outset, Petitioner’s reading is at odds with the plain text of the INA.

Petitioner describes 8 U.S.C. § 1226(a) as a “default” provision that applies “to all persons ‘pending a decision on whether the alien is to be removed from the United States.’” Pet. ¶ 38 (quoting 8 U.S.C. § 1226(a)). But 8 U.S.C. § 1225 is much narrower; it covers only “applicants for admission,” a specifically defined subset of aliens that explicitly includes those “present in the United States who ha[ve] not been admitted.” 8 U.S.C. § 1225(a). Petitioner, as discussed above, falls squarely into this category.

³ Petitioner’s arguments largely track those accepted by almost all district courts to have considered this issue. *See* Pet. ¶ 36 (collecting cases); *see also Rivera Zumba v. Bondi*, No. 25-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025). For the reasons discussed above, Respondents respectfully disagrees with those decisions and Petitioner’s arguments here.

And where, as here, there is any arguable overlap between two statutory provisions, the “commonplace rule of statutory interpretation is that the specific governs the general, particularly when Congress has targeted specific solutions in the context of a general statute.” *Aristy-Rosa v. Attorney Gen.*, 994 F.3d 112, 116 n.4 (3d Cir. 2021) (quotations omitted). Here, then, the specific detention authority in 8 U.S.C. § 1225 governs over the general or “default” authority described in 8 U.S.C. § 1226.

The Laken Riley Act (“LRA”), which added 8 U.S.C. § 1226(c)(1)(E) to the statute, does not alter this conclusion. *See* Pet. ¶ 39. That provision requires mandatory detention for various types of “inadmissible” aliens, which, Petitioner appears to suggest, must mean that 8 U.S.C. § 1226 must apply to “inadmissible” aliens because there would be no other reason for the LRA to clarify that certain types of inadmissible aliens must be detained. *See id.* Respondents disagree. The LRA added the mandatory detention requirements for “inadmissible” aliens to shore up what Congress believed was an enforcement gap. The LRA arose, according to Congress, after an inadmissible alien “was paroled into this country through a shocking abuse of that power.” 171 Cong. Rec. H278 (daily ed. Jan 22, 2025). (statement of Rep. McClintock). Congress passed the law out of concern that the executive branch “ignore[d] its fundamental duty under the Constitution to defend its citizens.” *Id.* at H269 (statement of Rep. Roy). One member of Congress noted this redundancy, stating that “every illegal alien is currently required to be detained by current law throughout the pendency of their asylum claims.” *Id.* at H278 (statement of Rep. McClintock). The LRA thus reflects a “congressional effort to be doubly sure”

that such unlawful aliens are detained. *See Barton v. Barr*, 590 U.S. 222, 239 (2020) (“[R]edundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication. The Court has often recognized: “Sometimes the better overall reading of the statute contains some redundancy.””).

Along these lines, Petitioner’s reading that 8 U.S.C. § 1225(b)(2)(A) is cabined to “people arriving at U.S. ports of entry or who recently entered the United States,” Pet. ¶ 41, fails to comport with the overall structure of the INA. Indeed, this view appears to ignore half the definition of “applicant for admission.” Congress defined an applicant for admission to mean two things: (1) an arriving alien; *or* (2) an alien present without being admitted. *See* 8 U.S.C. § 1225(a)(1). The former is someone “coming or attempting to come into the United States at a port of entry. 8 C.F.R. § 1.2 (defining “arriving alien”). The term arriving alien therefore covers the situation that Petitioner describes—i.e., those which occur when an alien is apprehended at the border or soon thereafter. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (finding § 235(a) applied to noncitizens who are “taken into custody the instant [they] attempted to enter the country (as would have been the case had he arrived at a lawful port of entry)” and those who “succeeded in making it [a short distance] into U. S. territory before [being] caught”). These are the people for whom 8 U.S.C. § 1225(b)(1)’s expedited removal procedures would apply. But there is also a second type of person—an alien present without being admitted—which must mean

something else. It is this “broader” group of people which Petitioner falls under. *See Jennings*, 583 U.S. at 287. He is an alien present in the United States without being admitted within the definition of 8 U.S.C. § 1225(a)(1), so the “catchall provision” in 8 U.S.C. § 1225(b)(2), which “applies to all applicants for admission not covered by § 1225(b)(1),” governs. *Id.*⁴

Petitioner may also attempt to argue that § 1225(b)(2) applies to only aliens “seeking admission,” and that an alien is “seeking admission” only when they are taking an affirmative step to gain admission. *See, e.g., Rivera Zumba v. Bondi*, No. 25-14626 (KSH), 2025 WL 2753496, at *7–9 (D.N.J. Sept. 26, 2025). But the BIA does not interpret the phrase “seeking admission” that way:

Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . In other words, many people who are not actually requesting

⁴ Even though § 1225(b) requires the detention of both types of applicants for admission, immigration officials did not always interpret it that way. Specifically, DHS’s predecessor agency, the U.S. Immigration and Naturalization Service (“INS”), read § 1225(b) to apply only to those who have arrived in the United States. That is, while INS detained arriving aliens, INS chose whether to detain aliens who have not been admitted. *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312-01, 10323, 1997 WL 93131, (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.”). Noncitizens who were present without admission were detained under the discretionary rules of INA § 236(a), 8 U.S.C. § 1226(a). *See id.* As of July 8, 2025, however, ICE has taken the position that all applicants for admission, including those who are present without admission, are subject to mandatory detention under § 1225(b)(2). ICE takes this position because it accords with the plain language of the statute and is consistent with recent caselaw from the Board of Immigration Appeals, the highest-level administrative body for interpreting immigration law. *See Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025).

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. 734, 743 (BIA 2012). The phrase “seeking admission” in § 1225(b)(2)(A) should be read to include an “applicant for admission.” Therefore, aliens who are “applicants for admission” are also aliens who are “seeking admission.” That is why, in § 1225(a)(3), Congress stated that immigration officers must inspect all aliens “who are applicants for admission or otherwise seeking admission.” 8 U.S.C. § 1225(a)(3).

Those phrases play out in a commonsense way in 8 U.S.C. § 1225(b)(2). The statute begins with a limiting or qualifying clause (i.e., the subsection applies only to “any applicant for admission,” which means only to those who are physically present). This limiting clause avoids the conclusion that the subsection would apply to those abroad; say, in an embassy. Having made clear that 8 U.S.C. § 1225(b)(2) applies only to those present, it continues with the second clause, which says that detention is mandatory if the immigration officer determines the “alien seeking admission” is not entitled to it. *See Adamowicz v. I.R.S.*, 552 F. Supp. 2d 355, 367–68 (S.D.N.Y. 2008) (“[A] limiting clause or phrase ... should ordinarily be read as modifying only the noun or phrase that it immediately follows.’ This approach is successful not merely as a matter of grammar, but also as a matter of internal logic: the set of information defined in the first clause is specific and in no need of further restriction, whereas the set of information defined in the second clause more appropriately lends itself to such restriction.”). Here, as discussed, Petitioner is an applicant for

admission because he is present without being admitted, and so subject to 8 U.S.C. § 1225(b)(2).

To be sure, when the plain text of a statute is clear, that meaning controls, and courts “need not consider ... extra-textual evidence” like legislative “history, purpose, and post-enactment practice.” *N.L.R.B. v. SW General, Inc.*, 580 U.S. 288, 305 (2017). But to the extent legislative history is relevant here, that history supports rather than rebuts Respondents’ arguments regarding the plain language of 8 U.S.C. § 1225. Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act 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). 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). Respondents’ reading of 8 U.S.C. § 1225(b)(2) makes sense because it would not put aliens who “crossed the border unlawfully” in a better position than those “who present themselves for inspection at a port of entry.” *Id.* Otherwise, aliens who presented at a port of entry would be subject to mandatory detention under § 1225, but those who crossed illegally would be eligible for a bond under 8 U.S.C. § 1226(a).

In the end, Petitioner’s argument is premised on the notion that 8 U.S.C. § 1225(b) and 8 U.S.C. § 1226(a) are mutually exclusive provisions. They are not. *See Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351, at *7-9 (D. Neb. Sept. 30, 2025) (rejecting notion that the two provisions apply to distinct groups and concluding alien may properly be detained under 8 U.S.C. § 1225(b)(2) even if also subject to 8 U.S.C. § 1226(a)). Nothing in the text of the INA or *Jennings*, the Supreme Court’s recent decision discussing these provisions, support the reading that detention under 8 U.S.C. § 1225(b)(2) and 8 U.S.C. § 1226(a) is mutually exclusive. *See id.* And here, “[e]ven if [Petitioner] might fall within the scope of § 1226(a), he certainly fits,” for the reasons discussed above, “within the language of § 1225(b)(2) as well.” *Id.* at *9; *see also id.* at n.5.

II. There is No Due Process Clause Violation

The Court should also reject Petitioner’s argument that his detention without a bond hearing violates the Due Process Clause. *See* Pet. ¶¶ 54-57. As a general matter, “applicants for admission are entitled only to those rights and protections Congress set forth by statute,” and “the due process clause requires ‘nothing more.’” *Pena*, 2025 WL 2108913, at *2 (citing *Thuraissigiam*, 591 U.S. at 140). That is because “the Constitution gives the political department of the government plenary authority to decide which aliens to admit, and a concomitant of that power is the power to set the procedures to be followed in determining whether an alien should be admitted.” *Thuraissigiam*, 591 U.S. at 139 (citation omitted) (cleaned up); *see also id.* (“[A]liens who arrive at ports of entry—even those paroled elsewhere in the country

for years pending removal—are treated for due process purposes as if stopped at the border.”). Here, as discussed above, Petitioner is an “applicant for admission” and subject to mandatory detention. And that detention comports with due process.

Although the Supreme Court has held that the Due Process Clause prohibits unduly prolonged detention in the context of post-final-order detentions, *see Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), some amount of detention is generally permissible, *Demore v. Kim*, 538 U.S. 510, 511 (2003). And here, ICE detained Petitioner on June 12, 2025, just under three months ago. *Cf. Zadvydas*, 533 U.S. at 690 (finding post-final-order detentions under six months presumptively reasonable). To that end, it is ICE’s position that Petitioner’s detention pending the conclusion of removal proceedings here is presumptively reasonable. *See, e.g., Pena*, 2025 WL 2108913, at *2–3 (holding detention of 17 days under § 1225(b) comported with due process); *Pipa-Aquise*, 2025 WL 2490657, at *1 (holding that “Petitioner two-month detention” under § 1225(b) did not violate due process). Moreover, Petitioner can request release on parole under § 1225. 8 U.S.C. § 1182(d)(5)(A).

Finally, even if detention under § 1225(b) has become “unreasonable” under the Due Process Clause, the appropriate remedy is a bond hearing, not immediate release. *See, e.g., Akhmadjanov v. Oddo*, No. 25-35, 2025 WL 660663, at *5 (W.D. Pa. Feb. 28, 2025); *Rodriguez v. Bondi*, No. 25-791, 2025 WL 2490670, at *3 (E.D. Va. June 24, 2025). Respondents respectfully submit that if the Court finds Petitioner’s detention is unreasonable, it should order an immigration judge to conduct a bond hearing rather than order Petitioner’s release. *Cf. Primero v. Mattivelo*,

No. 25-11442, 2025 WL 1899115, at *5 (D. Mass. July 9, 2025) (ordering bond hearing for detainee with deferred action based on SIJ).⁵

CONCLUSION

For the foregoing reasons, the Court should dismiss the petition.

Respectfully submitted,

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October 7, 2025

⁵ For similar reasons, even if the court holds that § 1226(a) applies to Petitioner, the appropriate remedy is a bond hearing, not immediate release. *See Valeriano v. Bondi*, No. 25-cv-16100 (MAS), ECF No. 4 (D.N.J. Oct. 1, 2025), at 2. (“As Petitioner acknowledges, even under his reading of the relevant immigration statutes, he is still subject to detention under 8 U.S.C. § 1226(a), albeit with an entitlement to seek bond from an immigration judge. Should Petitioner prevail in this matter, the proper relief would constitute an order directing the Government to provide Petitioner with the bond hearing to which he contends he is entitled under § 1226(a).”); *cf. Barbot v. Warden Hudson Cnty. Corr. Facility*, 966 F.3d 274, 278–79 (3d Cir. 2018); *but see, e.g., Rivera Zumba*, 2025 WL 2753496, at *10–11 (ordering petitioner’s release and “temporarily enjoin[ing] respondents from re-arresting petitioner under . . . 8 U.S.C. § 1226(a) for 14 days after her release”).