IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MIGUEL AZCUY RUIZ, et al.,

Petitioners,

v.

KRISTI NOEM, et al.,

Respondent.

Civil Action No. 1:25-CV-00203-H

RESPONSE IN OPPOSITION TO WRIT OF HABEAS CORPUS

RYAN RAYBOULD
UNITED STATES ATTORNEY

/s/ Ann E. Cruce-Haag
ANN E. CRUCE-HAAG
Assistant United States Attorney
Texas Bar No. 24032102
1205 Texas Avenue, Suite 700
Lubbock, Texas 79401
Telephone: (806) 472-7351
Facsimile: (806) 472-7394
Email: ann.haag@usdoj.gov

Attorneys for Respondent

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I. Introduction

Petitioners seek a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge their recent detention by Immigration and Customs Enforcement (ICE). They allege that they cannot be subject to mandatory immigration detention but rather must be given individualized bond hearings in connection with their pending removal proceeding. As explained herein, though, Petitioners are not entitled to any relief on their petition.

II. Background

Miquel Azcuy Ruiz

Petitioner is a native and citizen of Cuba. App. p. 15. Petitioner entered the United States at or near San Luis, Arizona, on or about September 20, 2022, without admission or parole after inspection. *Id.* On September 21, 2022, Petitioner was placed into removal proceedings through an issuance of the Notice to Appear and was charged as removable under INA § 212(a)(6)(A)(i). *Id.* On October 7, 2025, Petitioner reported to Dallas ERO Field Office where he was arrested and detained. Petitioner was transferred to Bluebonnet Detention Facility on October 8, 2025. On this same day, Petitioner filed his Asylum, withholding of removal, and relief under the Convention Against Torture with the Dallas Immigration Court. App. p. 23. On October 26, 2025, was transferred to the Rio Grande Detention Center where he is currently detained. Petitioner has not requested bond. Petitioner's merits hearing is set for December 10, 2025. App. p. 29.

Damaris Rivero Rodriquez

Petitioner is a native and citizen of Cuba. App. p. 11. Petitioner entered the United States at or near San Luis, Arizona, on or about September 20, 2022, without admission

or parole after inspection. *Id.* On September 21, 2022, Petitioner was placed into removal proceedings through an issuance of the Notice to Appear and was charged as removable under INA § 212(a)(6)(A)(i). *Id.* On October 7, 2025, Petitioner reported to Dallas ERO Field Office and was arrested and detained. On October 8, 2025, Petitioner filed her Asylum, withholding of removal, and relief under the Convention Against Torture with the Dallas Immigration Court. App. p. 23. Petitioner has not requested bond. Her next upcoming master hearing is December 16, 2025. App. p. 32.

Marcos Rivero Azcuy

Petitioner is a native and citizen of Cuba. App. p. 19. Petitioner entered the United States at or near San Luis, Arizona, on or about September 20, 2022, without admission or parole after inspection. *Id.* On September 21, 2022, Petitioner was placed into removal proceedings through an issuance of the Notice to Appear and was charged as removable under INA § 212(a)(6)(A)(i). *Id.* On October 7, 2025, Petitioner reported to Dallas ERO Field Office where he was arrested and detained. Petitioner was transferred to Prairieland Detention Center on October 8, 2025, where he is currently detained. Thereafter on October 8, 2025, Petitioner filed his Asylum, withholding of removal, and relief under the Convention Against Torture with the Dallas Immigration Court. App. p. 25. Petitioner had his master hearing with El Paso Immigration Court on November 12, 2025. Petitioner has not requested bond. The next master hearing is November 19, 2025. App. p. 35.

III. Argument and Authorities

The Court should deny Petitioners' petition for the following reasons:

A. Petitioners are not entitled to any relief, because they are applicants for admission who may properly be subjected to mandatory detention under 8 U.S.C. § 1225 without any requirement for a bond hearing.

Petitioners' detention is statutorily authorized by section 1225. Pursuant to 8 U.S.C. § 1225(b)(2)(A), "in the case 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, the alien shall be detained for a proceeding under section 1229a [removal proceedings]." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has held that section 1225(b)(2)(A) is a mandatory detention statute and that aliens detained pursuant to that provision are not entitled to bond. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)("Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens.").

Petitioners fall squarely within the ambit of section 1225(b)(2)(A)'s mandatory detention requirement as Petitioners are "applicants for admission" to the United States. As described above, an "applicant for admission" is an alien present in the United States who has not been admitted. 8 U.S.C. § 1225(a)(1). Congress's broad language here is unequivocally intentional—an undocumented alien is to be "deemed for purposes of this chapter an applicant for admission." *Id.* Regardless of Petitioners' characterization that "an applicant for admission" should only include aliens captured at the border or at a port of entry, they are "deemed" applicants for admission based on their failure to seek lawful admission to the United States before an immigration officer, which is undisputed. *See generally* ECF 1. And because Petitioners have not demonstrated to an examining immigration officer that he is "clearly and beyond a doubt entitled to be admitted,"

Petitioners' detention is mandatory. 8 U.S.C. § 1225(b)(2)(A). Thus, Petitioners are properly detained pursuant to section 1225(b)(2)(A), which mandates that Petitioners "shall be" detained.

The Supreme Court has confirmed an alien present in the country but never admitted is deemed "an applicant for admission" and that "detention must continue" "until removal proceedings have concluded" based on the "plain meaning" of 8 U.S.C. § 1225. *Jennings*, 583 U.S. at 289; 299. At issue in *Jennings* was the statutory interpretation. The Supreme Court reversed the Ninth Circuit Court of Appeal's imposition of a six-month detention time limit into the statute. *Id.* at 297. The Court clarified there is no such limitation in the statute and reversed on these grounds, remanding the constitutional Due Process claims for initial consideration before the lower court. *Id.* But under the words of the statute, as explained by the Supreme Court, section 1225 includes aliens like the Petitioners who are present but have not been admitted and they shall be detained pending their removal proceedings.

Specifically, the Supreme Court declared, "an alien who 'arrives in the United States,' *or* 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Id.* at 287 (emphasis on "or" added). In doing so, the Court explained both aliens captured at the border and those illegally residing within the United States would fall under section 1225. This would include Petitioners as aliens who are present in the country without being admitted.

The BIA's recently issued published decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is consistent with these principles. In its decision, the BIA

affirmed "the Immigration Judge's determination that he did not have authority over [a] bond request because aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.* at 220.[1]

The BIA concluded that aliens "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United States for a lengthy period of time following entry without inspection, by itself, does not constitute an 'admission.'" *Id.* at 228. To hold otherwise would lead to an "incongruous result" that rewards aliens who unlawfully enter the United States without inspection and subsequently evade apprehension for a number of years. *Id.*

In so concluding, the BIA rejected the alien's argument that "because he has been residing in the interior of the United States for almost 3 years . . . he cannot be considered as 'seeking admission.'" *Id.* at 221. The BIA determined that this argument "is not supported by the plain language of the INA" and creates a "legal conundrum." *Id.* If the alien "is not admitted to the United States (as he admits) but he is not 'seeking admission' (as he contends), then what is his legal status?" *Id.* (parentheticals in original).

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[1] Previously, § 1226(a) had been interpreted as an available detention authority for aliens who were present without admission and placed in § 1229a removal proceedings. *See, e.g., Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 747–48 (BIA 2023). However, as noted by the BIA, the BIA had not previously addressed this issue in a precedential decision. *See Matter of Yajure Hurtado*, 29 I&N Dec. at 216.

The decision in *Matter of Yajure Hurtado* is consistent not only with the plain language of § 1225(b)(2), but also with the Supreme Court's 2018 decision in *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is "quite clear" and "unequivocally mandate[s]" detention. 583 U.S. at 300, 303.

Similarly, relying on *Jennings* and the plain language of §§ 1225 and 1226(a), the Attorney General recognized in *Matter of M-S-* that §§ 1225 and 1226(a) describe "different classes of aliens." 27 I&N Dec. 509, 516 (AG 2019). And in *Matter of Q. Li*, the BIA also held that an alien who illegally crossed into the United States between ports-of-entry and was apprehended without a warrant while arriving is detained under § 1225(b). 29 I&N Dec. 66, 71 (BIA 2025). These decisions make clear that all applicants for admission are subject to detention under § 1225(b). *See also Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit").

Given that section 1225 is the applicable detention authority for all applicants for admission—both arriving aliens and aliens present without admission alike, regardless of whether the alien was initially processed for expedited removal proceedings under § 1225(b)(1) or placed directly into removal proceedings under § 1229a—and further given that both "§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings," *Jennings*, 583 U.S. at 302. Petitioners have no

grounds to complain that they are subject to mandatory detention and are not entitled to a bond hearing.

Petitioners are properly considered applicants for admission (specifically, an alien present without admission), and they were placed into removal proceedings under § 1229a. They are therefore subject to detention pursuant to § 1225(b)(2)(A) and there is no requirement that they be eligible for bond.

B. The Due Process Clause do not entitle Petitioners to any relief.

While as-applied constitutional challenges to immigration detention may be brought under certain circumstances, there is no colorable claim articulated in this habeas petition that Petitioners' detention without bond is unconstitutional. See, e.g., *Jennings v. Rodriguez*, 583 U.S. 281, 312 (2018). This Court's review is limited to whether ICE is providing due process of law to Petitioners within the scope of § 1225(b). *Id.; see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Indeed, Petitioners remain in "full" removal proceedings before the immigration court, which entitles them to robust procedural and substantive due process protections, including representation by counsel of their choice at no expense to the government and appellate review of any adverse decision. Petitioners are not entitled to anything beyond what § 1225(b) provides them. *Thurajssigam*, 591 U.S. at 140.

Petitioners are afforded no additional process simply because they claim eligibility for relief from removal before an IJ. Here, Petitioners are not in expedited removal proceedings, and their present detention does not prohibit them from pursuing avenues of relief before the IJ; on the contrary, as detained aliens, they are likely to receive a

decision on their relief applications far more quickly than they would on the non-detained docket.

Moreover, Petitioners' pre-removal custody is neither prolonged, nor indefinite. Petitioners have been detained for approximately one month while there is pending removal proceedings. In other contexts, the United States Supreme Court has explained that less than six months detention is presumed constitutional. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). And even *Zadvydas* involved detention that was "indefinite" and "potentially permanent." *Id.* at 690–91. But there is no indication that Petitioners' removal proceedings pose similar concerns. Pre-removal-order detention "has a definite termination point: *the conclusion of removal proceedings*." *Castaneda v. Perry*, 95 F.4th 750 (4th Cir. 2024) (emphasis in original) (paraphrasing *Jennings*, 583 U.S. at 304). Petitioners' next master calendar hearings are all scheduled in December. Clearly, Petitioners' pre-removal proceedings are progressing, are not indefinite, and satisfy all due process requirements. Petitioners' detentions are not delayed beyond anything other than ordinary litigation processes. *See Linares v. Collins*, 1:25- CV-00584-RP-DH, ECF No. 14 at 15 (W.D. Tex. Aug. 12, 2025) (collecting cases and finding that aliens cannot assert viable due process claims when their detention is caused by their own plight, because delay due to litigation activity does not render detention indefinite). Pre-removal-order detention is both statutorily permissible and constitutional, and it is neither indefinite nor prolonged.

IV. Conclusion

Petitioners are lawfully detained pending removal proceedings, and they do not claim any immigration status that would entitle them to immediate release from custody. They remain in "full" removal proceedings with robust due process protections. Accordingly, the Court should deny this petition.

Respectfully submitted,

RYAN RAYBOULD
UNITED STATES ATTORNEY

/s/ Ann E. Cruce-Haag
ANN E. CRUCE-HAAG
Assistant United States Attorney
Texas Bar No. 24032102
1205 Texas Avenue, Suite 700
Lubbock, Texas 79401
Telephone: (806) 472-7351
Facsimile: (806) 472-7394
Email: ann.haag@usdoj.gov

Attorneys for Respondent

CERTIFICATE OF SERVICE

On November 20, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
ANN E. CRUCE-HAAG
Assistant United States Attorney