

1 SIGAL CHATTAH  
Acting United States Attorney  
2 District of Nevada  
Nevada Bar No. 8264

3 TAMER B. BOTROS  
4 Assistant United States Attorney  
Nevada Bar No. 12183  
5 501 Las Vegas Boulevard South, Suite 1100  
Las Vegas, Nevada 89101  
6 Tel: (702) 388-6336  
Fax: (702) 388-6787  
7 [Tamer.Botros@usdoj.gov](mailto:Tamer.Botros@usdoj.gov)

8 *Attorneys for the Federal Respondents*

9  
10 **UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

11 ALEXIS JESUS ROJAS MEDINA,

12 Plaintiff,

13 v.

14 John MATTOS, Warden, Nevada Southern  
Detention Center; Jason KNIGHT, Acting  
15 Las Vegas/Salt Lake City Field Office  
Director, Enforcement and Removal  
16 Operations, United States Immigration and  
Customs Enforcement (ICE) Joseph B.  
17 EDLOW, Director, USCIS; Kristi NOEM,  
Secretary, United States Department of  
18 Homeland Security, Pamela BONDI,  
Attorney General of the United States;  
19 Daren K. Margolin Director, Executive  
Office for Immigration Review,

20 Respondents.  
21

Case No. 2:25-cv-02020-CDS-BNW

**Federal Respondents' Response to  
Petition for Writ of Habeas Corpus and  
Federal Tort Claim**

22 Federal Respondents, through undersigned counsel, file their response to Petitioner  
23 Alexis Jesus Rojas Medina's Petition for Writ of Habeas Corpus and Federal Tort Claim  
24 (ECF No. 1). In his Petition, the Petitioner, who does not have a legal status in the United  
25 States, is asking the Court to grant his release from Department of Homeland Security (DHS)  
26 Immigration and Customs Enforcement (ICE) custody. ECF No. 1, ¶ 60. Petitioner who is a  
27 citizen of Venezuela, is claiming that USCIS' termination of his Temporary Protected  
28 Status (TPS) is a violation of the law. ECF No. 1, ¶ 68. The Petition should be denied

1 because on February 5, 2025, the Secretary of Homeland Security announced the  
2 termination of the 2023 designation of Venezuela for TPS. See the decision by USCIS  
3 dated November 4, 2025, denying Petitioner's Appeal attached as Exhibit A.

4 **I. Introduction**

5 On January 27, 2025, Petitioner filed with USCIS his initial TPS application under  
6 the 2023 Venezuela designation. On April 23, 2025, USCIS issued an Approval Notice for  
7 that application indicating validity from April 23, 2025 to October 2, 2026. On September  
8 11, 2025, USCIS issued a notice indicating that Petitioner's TPS was withdrawn as he is no  
9 longer merited a favorable exercise of discretion due, in part, to an arrest, and subsequent  
10 charges on August 27, 2025. USCIS noted additional negative equities in the record when  
11 determining he is no longer merited a favorable exercise of discretion. The withdrawal  
12 notice concluded by indicating that since Petitioner had been issued a Notice to Appear,  
13 and his removal proceedings are pending, the decision withdrawing TPS may not be  
14 appealed to the Administrative Appeals Office; but that he retained the right to a de novo  
15 determination of his eligibility for TPS in removal proceedings. Petitioner provided a court  
16 order dated September 17, 2025, indicating the August 27, 2025 arrest noted in the  
17 withdrawal, was dismissed with prejudice due to an identity issue. Petitioner submitted a  
18 request for USCIS to "reinstate Mr. Rojas Medina's TPS status." On February 5, 2025, the  
19 Secretary of Homeland Security announced the termination of the 2023 designation of  
20 Venezuela for TPS. See 90 Federal Register 9040 Termination of the October 3, 2023  
21 Designation of Venezuela for Temporary Protected Status attached Exhibit B.

22 Subsequent to the withdrawal of Petitioner's TPS, USCIS posted the following alert:

23 **ALERT:** After reviewing country conditions and consulting with the appropriate  
24 U.S. government agencies, Secretary of Homeland Security Kristi Noem  
25 determined that Venezuela no longer meets the conditions for its designation for  
26 Temporary Protected Status (TPS), and that the termination of the 2023 Venezuela  
27 TPS designation is required as it is contrary to the national interest. On October 3,  
28

1 2025, the Supreme Court allowed the termination to take immediate effect. TPS  
2 beneficiaries who received TPS-related employment authorization documents  
(EADs), Forms I-797, Notices of Action, and Forms I-94 issued with October 2,  
3 2026, expiration dates on or before February 5, 2025 will maintain work  
4 authorization and their documentation will remain valid until October 2, 2026,  
pursuant to the U.S. District Court for the Northern District of California's order  
dated May 30, 2025.

5 Separately, Secretary Noem published her notice to terminate the Venezuela 2021  
6 designation, which is effective on Nov. 7, 2025, at 11:59 p.m. See Termination of  
7 the 2021 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg.  
43225 (Sept. 8, 2025). See <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela>

8  
9 The USCIS Alert provides that pursuant to the U.S. Supreme Court, the 2023 Venezuela  
10 TPS designation was terminated effective October 3, 2025. See attached U.S. Supreme  
11 Court Order on application for a stay October 3, 2025 attached as Exhibit C. As the alert  
12 indicates, if a 2023 Venezuela TPS beneficiary received TPS documentation with validity  
13 to October 2, 2026, that was issued on or before February 5, 2025, such documentation  
14 remains valid until October 2, 2026, pursuant to the U.S. District Court for the Northern  
15 District of California's order dated May 30, 2025. In this case, Petitioner's application for  
16 TPS under the 2023 designation was approved on April 23, 2025, not on or before  
17 February 5, 2025 as required. Therefore, Petitioner's TPS documentation is not valid, and  
18 he no longer has TPS and his Petition should be denied.  
19

## 20 **II. Points and Authorities**

### 21 **A. Detention under 8 U.S.C. § 1225.**

22 Section 1225 applies to "applicants for admission," who are defined as "alien[s]  
23 present in the United States who [have] not been admitted" or "who arrive[] in the United  
24 States." 8 U.S.C. § 1225(a)(1); see *Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA  
25

1 2014) (“[R]egardless of whether an alien who illegally enters the United States is caught at  
2 the border or inside the country, he or she will still be required to prove eligibility for  
3 admission.”). Accordingly, by its very definition, the term “applicant for admission”  
4 includes two categories of aliens: (1) arriving aliens, and (2) aliens present without  
5 admission. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining  
6 that “an alien who tries to enter the country illegally is treated as an ‘applicant for  
7 admission’” (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA  
8 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an  
9 unconventional sense, to include not just those who are expressly seeking permission to  
10 enter, but also those who are present in this country without having formally requested or  
11 received such permission . . . .”); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA  
12 2011) (stating that “the broad category of applicants for admission . . . includes, *inter alia*,  
13 any alien present in the United States who has not been admitted” (citing 8 U.S.C. §  
14 1225(a)(1))). An arriving alien is defined, in pertinent part, as “an applicant for admission  
15 coming or attempting to come into the United States at a port-of-entry [(“POE”)] . . . .” 8  
16 C.F.R. §§ 1.2, 1001.1(q).

17 All aliens who are applicants for admission “shall be inspected by immigration  
18 officers.” 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) (“Application to lawfully enter  
19 the United States shall be made in person to an immigration officer at a U.S. [POE] when  
20 the port is open for inspection . . . .”). An applicant for admission seeking admission at a  
21 United States POE “must present whatever documents are required and must establish to  
22 the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is  
23 entitled, under all of the applicable provisions of the immigration laws . . . to enter the  
24 United States.” 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. § 1229a(c)(2)(A) (describing the related  
25 burden of an applicant for admission in removal proceedings). “An alien present in the

1 United States who has not been admitted or paroled or an alien who seeks entry at other  
2 than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and  
3 to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a].” 8 C.F.R. § 235.1(f)(2).

4 Both arriving aliens and aliens present without admission, as applicants for  
5 admission, may be removed from the United States by, *inter alia*, expedited removal  
6 procedures under 8 U.S.C. § 1225(b)(1)<sup>1</sup> or removal proceedings before an IJ under 8 U.S.C.  
7 § 1229a. 8 U.S.C. §§ 1225(b)(1), (b)(2)(A), 1229a; *Jennings v. Rodriguez*, 583 U.S. 281, 287  
8 (2018) (describing how “applicants for admission fall into one of two categories, those  
9 covered by § 1225(b)(1) and those covered by § 1225(b)(2)”). Section 1225(b)(1) applies to  
10 arriving aliens and “certain other” aliens “initially determined to be inadmissible due to  
11 fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i),  
12 (iii). These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. §  
13 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply for asylum . . . or a fear of  
14 persecution,” immigration officers will refer the alien for a credible fear interview. *Id.* §  
15 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is “detained for further  
16 consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien neither  
17 indicates an intention to apply for asylum, nor expresses a fear of persecution, or is “found  
18 not to have such a fear,” they are detained until removed. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

19  
20 <sup>1</sup> Section 1225(b)(1) authorizes immigration officers to remove certain inadmissible aliens “from the United  
21 States without further hearing or review” if the immigration officer finds that the alien, “who is arriving in the  
22 United States or is described in [8 U.S.C. § 1225(b)(1)(A)(iii)] is inadmissible under [8 U.S.C. § 1182(a)(6)(C)  
23 or (a)(7)].” 8 U.S.C. § 1225(b)(1)(A)(i); *see* 8 C.F.R. § 235.3(b)(2)(i). If the Department of Homeland Security  
24 (DHS) wishes to pursue inadmissibility charges other than 8 U.S.C. § 1182(a)(6)(C) or (a)(7), DHS must place  
25 the alien in removal proceedings under 8 U.S.C. § 1229a. 8 C.F.R. § 235.3(b)(3). Additionally, an alien who  
26 was not inspected and admitted or paroled, but “who establishes that he or she has been continuously  
27 physically present in the United States for the 2-year period immediately prior to the date of determination of  
28 inadmissibility shall be detained in accordance with [8 U.S.C. § 1225(b)(2)] for a proceeding under [8 U.S.C. §  
1229a].” *Id.* § 235.3(b)(1)(ii); *id.* § 1235.6(a)(1)(i) (providing that an immigration officer will issue and serve an  
NTA to an alien “[i]f, in accordance with the provisions of [8 U.S.C. § 1225(b)(2)(A)], the examining  
immigration officer detains an alien for a proceeding before an immigration judge under [8 U.S.C. § 1229a]”).

1 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583  
2 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.*  
3 Under 8 U.S.C. § 1225(b)(2), an alien “who is an applicant for admission” shall be detained  
4 for a removal proceeding under 8 U.S.C. § 1229a “if the examining immigration officer  
5 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to  
6 be admitted.” 8 U.S.C. § 1225(b)(2)(A). Applicants for admission whom DHS places in 8  
7 U.S.C. § 1229a removal proceedings are subject to detention under 8 U.S.C. § 1225(b)(2)(A)  
8 and ineligible for a custody redetermination hearing before an immigration judge.

9 As explained by the BIA in its recent decision, the statutory definition of an  
10 “applicant for admission” was added to the Immigration and Nationality Act (INA) at  
11 section 235(a)(1), 8 U.S.C. § 1225(a)(1) in 1996. *Matter of Yajure Hurtado*, 29 I. & N. Dec.  
12 216, 222 (BIA 2025) (citing Illegal Immigration Reform and Immigrant Responsibility Act  
13 of 1996 (“IIRIRA”), Pub., L. No. 104-208, Div. C, § 302(a), 110 Stat. 3009-546, 3009-579).  
14 The BIA examined the legislative history of IIRIRA, specifically regarding Congress’s  
15 replacement of “entry” with a definition for “admission,” and “admitted,” and cited to the  
16 Congressional Record explaining that Congress, “intended to replace certain aspects of the  
17 current ‘entry doctrine,’ under which illegal aliens who have entered the United States  
18 without inspection gain equities and privileges in immigration proceedings that are not  
19 available to aliens who present themselves for inspection at a port of entry. Hence, the  
20 pivotal factor in determining an alien’s status will be whether the alien has been lawfully  
21 admitted.” *Id.* at 223-24 (quoting H.R. Rep. No.104-469, pt. 1, at 225 (1996)). The BIA  
22 referred to the House Judiciary Committee Report for what would become IIRIRA, which  
23 further explained, “Currently, aliens who have entered without inspection are deportable  
24 under section 241(a)(1)(B). Under the new ‘admission’ doctrine, such aliens will not be  
25 considered to have been admitted, and thus, must be subject to a ground of inadmissibility,

1 rather than a ground of deportation, based on their presence without admission.  
2 (Deportation grounds will be reserved for aliens who have been admitted to the United  
3 States.)” *Id.* at 224 (quoting H.R. Rep. No.104-469, pt. 1, at 226). “Thus, after the 1996  
4 enactment of IIRIRA, aliens who enter the United States without inspection or admission  
5 are ‘applicants for admission’ under section 235(a)(1) of the INA, 8 U.S.C. § 1225(a)(1), and  
6 subject to the inspection, detention, and removal procedures of section 235(b) of the INA, 8  
7 U.S.C. § 1225(b).” *Id.* As the BIA further explained, “the legislative history confirms that,  
8 under a plain language reading of section 235(b)(1) and (2) of the INA, 8 U.S.C. §  
9 1225(b)(1), (2), Immigration Judges do not have authority to hold a bond hearing for  
10 arriving aliens and applicants for admission.” *Id.* The statutory text of the INA is “clear and  
11 explicit in requiring mandatory detention of all aliens who are applicants for admission,  
12 without regard to how many years the alien has been residing in the United States without  
13 lawful status.” *Id.* at 226.

14 In this case, Petitioner no longer has TPS because the 2023 Venezuela TPS  
15 designation was terminated effective October 3, 2025, and because Petitioner’s designation  
16 was approved on April 23, 2025, not on or before February 5, 2025 as required by the  
17 termination. Therefore, Petitioner is subject to mandatory detention and his Petition should  
18 be denied.

19 **B. Detention under 8 U.S.C. § 1226(a).**

20 Section 1226 is the applicable detention authority for those aliens who have been  
21 admitted and are deportable. Section 1226 provides for arrest and detention “pending a  
22 decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a).  
23 As the Supreme Court explained, 8 U.S.C. § 1226(a) “applies to aliens already present in the  
24 United States” and “creates a default rule for those aliens by permitting—but not  
25 requiring—the [Secretary] to issue warrants for their arrest and detention pending removal  
26  
27  
28

1 proceedings.” *Jennings*, 583 U.S. at 289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N  
2 Dec. at 516 (describing 8 U.S.C. § 1226(a) as a “permissive” detention authority separate  
3 from the “mandatory” detention authority under 8 U.S.C. § 1225).<sup>2</sup> Under § 1226(a), the  
4 government may detain an alien during his removal proceedings, release him on bond, or  
5 release him on conditional parole.<sup>3</sup> Section 1226(a) does not, however, confer the *right* to  
6 release on bond. By regulation, immigration officers can release aliens if the alien  
7 demonstrates that he “would not pose a danger to property or persons” and “is likely to  
8 appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also request a  
9 custody redetermination (i.e., a bond hearing) by an Immigration Judge (IJ) at any time  
10 before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1),  
11 1236.1(d)(1), 1003.19.

12 At a custody redetermination hearing, the IJ may continue detention or release the  
13 alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have  
14 broad discretion in deciding whether to release an alien on bond. *In re Guerra*, 24 I.&N. Dec.  
15 37, 39–40 (BIA 2006) (listing nine factors for IJs to consider).

### 16 **C. Review at the Board of Immigration Appeals (BIA).**

17 <sup>2</sup> Importantly, a warrant of arrest is not required in all cases. *See* 8 U.S.C. § 1357(a). For example, an  
18 immigration officer has the authority “to arrest any alien who in his presence or view is entering or attempting  
19 to enter the United States in violation of any law or regulation” or “to arrest any alien in the United States, if  
20 he has reason to believe that the alien so arrested is in the United States in violation of any such law or  
21 regulation and is likely to escape before a warrant can be obtained for his arrest . . . .” *Id.* § 1357(a)(2);  
22 8 C.F.R. § 287.3(a), (b) (recognizing the availability of warrantless arrests); *see Q. Li*, 29 I&N Dec. at 70 n.5.  
23 Moreover, DHS may issue a warrant of arrest within 48 hours (or an “additional reasonable period of time”  
24 given any emergency or other extraordinary circumstances), 8 C.F.R. § 287.3(d); doing so does not constitute  
25 “post-hoc issuance of a warrant,” *Q. Li*, 29 I&N Dec. at 69 n.4. While the presence of an arrest warrant is a  
26 threshold consideration in determining whether an alien is subject to 8 U.S.C. § 1226(a) detention authority  
27 under a plain reading of 8 U.S.C. § 1226(a), there is nothing in *Jennings* that stands for the assertion that aliens  
28 processed for arrest under 8 U.S.C. § 1225 cannot have been arrested pursuant to a warrant. *See Jennings*, 583  
U.S. at 302.

<sup>3</sup> Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled into the United  
States under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007)  
(holding that because release on “conditional parole” under § 1226(a) is not a parole, the alien was not eligible  
for adjustment of status under § 1255(a)).

1 The BIA is an appellate body within the Executive Office for Immigration Review  
2 (EOIR). *See* 8 C.F.R. § 1003.1(d)(1). Members of the BIA possess delegated authority from  
3 the Attorney General. 8 C.F.R. § 1003.1(a)(1). The BIA is “charged with the review of those  
4 administrative adjudications under the [INA] that the Attorney General may by regulation  
5 assign to it,” including IJ custody determinations. 8 C.F.R. § 1003.1(d)(1); *see also id.*  
6 §§ 236.1(d)(3) (discussing appeals of bond and custody determinations to the BIA),  
7 1236.1(d)(3) (same). The BIA not only resolves particular disputes before it, but also  
8 “through precedent decisions, [it] shall provide clear and uniform guidance to DHS, the  
9 immigration judges, and the general public on the proper interpretation and administration  
10 of the [INA] and its implementing regulations.” *Id.* § 1003.1(d)(1). “The decision of the  
11 [BIA] shall be final except in those cases reviewed by the Attorney General.” 8 C.F.R. §  
12 1003.1(d)(7). Recently, the BIA ruled and provided clear guidance on an issue the Board has  
13 not previously addressed in a precedential decision on whether IJs have authority to  
14 consider the bond request of an alien who entered the United States without admission and  
15 who has been present in the United States for at least 2 years. *See Matter of Yajure Hurtado*, 29  
16 I. & N. Dec. 216 (BIA 2025); *see also Matter of Q. Li*, 29 I&N Dec. at 68 (quoting *Jennings*,  
17 583 U.S. at 299) (holding that for aliens “seeking admission into the United States who are  
18 placed directly in full removal proceedings, [8 U.S.C. § 1225(b)(2)(A)] . . . mandates  
19 detention ‘until removal proceedings have concluded’”). That is the same issue presented by  
20 the Petitioner.

## 21 I. PROCEDURAL BACKGROUND

22 Petitioner alleges that he has been in detention since September 3, 2025, after being  
23 arrested and that ICE did not set bond and he is unable to obtain review of his custody by  
24 an IJ, under the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).  
25 ECF No. 1, ¶ 15. On September 29, 2025, Petitioner filed his Petition for Writ of Habeas

1 Corpus, alleging that his is unlawfully detained. ECF No. 1. The Court ordered Federal  
2 Respondents to file their response to the Petition by October 10, 2025. ECF No. 2.

3 **A. Applicants for Admission in 8 U.S.C. § 1229a Removal Proceedings Are**  
4 **Detained Pursuant to 8 U.S.C. § 1225(b)(2)(A)**

5 As discussed above, Petitioner is an applicant for admission. Petitioner falls under 8  
6 U.S.C. § 1225(b)(2)(A). Accordingly, 8 U.S.C. § 1225(b)(2)(A) governs his detention. *See Q.*  
7 *Li*, 29 I&N Dec. at 68. Legal developments have made clear that 8 U.S.C. § 1225 is the sole  
8 applicable immigration detention authority for *all* applicants for admission. In *Jennings*, the  
9 Supreme Court explained that 8 U.S.C. § 1225(b) applies to all applicants for admission,  
10 noting that the language of 8 U.S.C. § 1225(b)(2) is “quite clear” and “unequivocally  
11 mandate[s]” detention. 583 U.S. at 300, 303 (explaining that “the word ‘shall’ usually  
12 connote a requirement” (quoting *Kingdomware Technologies, Inc. v. United States*, 579 U.S.  
13 162, 171 (2016))). Similarly, the Attorney General, in *Matter of M-S-*, unequivocally  
14 recognized that 8 U.S.C. §§ 1225 and 1226(a) do not overlap but describe “different classes  
15 of aliens.” 27 I&N Dec. at 516. The Attorney General also held—in an analogous context—  
16 that aliens present without admission and placed into expedited removal proceedings are  
17 detained under 8 U.S.C. § 1225 even if later placed in 8 U.S.C. § 1229a removal  
18 proceedings. 27 I&N Dec. at 518-19. In *Matter of Q. Li*, the Board held that an alien who  
19 illegally crossed into the United States between POEs and was apprehended without a  
20 warrant while arriving is detained under 8 U.S.C. § 1225(b). 29 I&N Dec. at 71. This  
21 ongoing evolution of the law makes clear that all applicants for admission are subject to  
22 detention under 8 U.S.C. § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021)  
23 (providing that “no amount of policy-talk can overcome a plain statutory command”); *see*  
24 *generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining  
25 that “the 1996 expansion of § 1225(b) to include illegal border crossers would make little  
26 sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers

1 whenever the agency saw fit”).<sup>4</sup> *Florida*’s conclusion “that § 1225(b)’s ‘shall be detained’  
2 means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*.”  
3 *Florida*, 660 F. Supp. 3d at 1273.

4 Given 8 U.S.C. § 1225 is the applicable detention authority for all applicants for  
5 admission—both arriving aliens and aliens present without admission alike, regardless of  
6 whether the alien was initially processed for expedited removal proceedings under 8 U.S.C.  
7 § 1225(b)(1) or placed directly into removal proceedings under 8 U.S.C. § 1229a—and  
8 “[b]oth [8 U.S.C. § 1225(b)(1) and (b)(2)] mandate detention . . . throughout the completion  
9 of applicable proceedings,” *Jennings*, 583 U.S. at 301–03, IJs do not have authority to  
10 redetermine the custody status of an alien present without admission. Accordingly, for the  
11 reasons discussed above, Petitioner, as an alien present without admission in 8 U.S.C.  
12 § 1229a removal proceedings, is an applicant for admission and an alien seeking admission  
13 and is therefore subject to detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for a bond  
14 redetermination hearing before an IJ; he should not be able to circumvent these  
15 jurisdictional restrictions by raising essentially the same claim in a district court.

16 ///

17 ///

18 ///

19 ///

20 ///

---

21 <sup>4</sup> Though not binding, *Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) (quoting 18 J. Moore et al., Moore’s  
22 Federal Practice § 134.02[1] [d], p. 134–26 (3d ed.2011)) (providing that “[a] decision of a federal district court  
23 judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the  
24 same judge in a different case”); *Evans v. Skolnik*, 997 F.3d 1060, 1067 (9th Cir. 2021) (same), the U.S. District  
25 Court for the Northern District of Florida’s decision is instructive here. *Florida* held that 8 U.S.C. § 1225(b)  
26 mandates detention of applicants for admission throughout removal proceedings, rejecting the assertion that  
27 DHS has discretion to choose to detain an applicant for admission under either 8 U.S.C. §§ 1225(b) or 1226(a).  
28 660 F. Supp. 3d at 1275. The court held that such discretion “would render mandatory detention under 8  
U.S.C. § 1225(b) meaningless.” *Id.*

1 **III. Conclusion**

2 Based on the above, this Court should deny the Petition for Writ of Habeas Corpus  
3 and Federal Tort Claim.

4 Respectfully submitted this 5th day of November 2025.

5  
6 SIGAL CHATTAH  
Acting United States Attorney

7 /s/ Tamer B. Botros  
8 TAMER B. BOTROS  
Assistant United States Attorney  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Certificate of Service

I, Cortney Bivens, certify that the **Federal Respondents' Response to Petition for Writ of Habeas Corpus and Federal Tort Claim** was served this date via U.S. Mail and electronic mail to the following:

Marti L. Jones  
Stowell Crayk PLLC  
4252 South 700 East  
Millcreek, UT 84107  
[marti@lawscb.com](mailto:marti@lawscb.com)  
*Attorneys for Petitioner, Pro Hac Vice*

Kaleb D. Anderson  
Garin Law Group  
9900 Covington Cross Dr, Ste210  
Las Vegas, NV 89144  
[Anderson@garinlawgroup.com](mailto:Anderson@garinlawgroup.com)  
*Attorneys for Petitioner*

Dated this 5th day of November 2025.

/s/ Cortney Bivens  
Cortney Bivens  
Paralegal