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13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 Silveria Gonzalez Rodriguez,
16 Petitioner,
17 v.
18 Pamela Bondi, *et al.*,
19 Respondents.

No. 25-cv-03917-JJT (DMF)

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

20 Respondents hereby answer the Petition for Writ of Habeas Corpus, as directed by this
21 Court's Order to Show Cause dated October 22, 2025. Doc. 5.

22 The Court in its OSC has informed the parties of its conclusion in advance that
23 Petitioner Silveria Gonzalez Rodriguez's detention is governed by 8 U.S.C. § 1226, and not by
24 8 U.S.C. § 1225(b)(2)(A) as the Department of Homeland Security (DHS) contends. Doc. 5 at
25 3. The government acknowledges and respects this conclusion but nonetheless preserves its
26 legal arguments with this brief for purposes of a possible appeal. It therefore advances the
27 argument here that, notwithstanding this Court's conclusion that § 1226 governs Petitioner's
28 detention, Petitioner is an "applicant for admission" under 8 U.S.C. § 1225(b)(2), who must
therefore be detained without bond pending removal proceedings. The government therefore
urges the Court to reconsider its conclusion that § 1226 applies. Should the Court decline to
do so, the government agrees to proceed with a bond hearing while reserving its right to appeal.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Petitioner is a 39-year-old native and citizen of Mexico. *See* Exhibit 1, Declaration of
3 David Sandoval, Deportation Officer, ¶ 3. She entered the United States without inspection in
4 1995. Exhibit 1, ¶ 3. In 2014, Petitioner filed a Form I-821D application for Deferred Action
5 for Childhood Arrivals (DACA), and a Form I-765 Application for Work Authorization with
6 United States Citizenship and Immigration Services (USCIS). Exhibit 1, ¶ 4. USCIS denied
7 both of these applications, on November 8, 2014. Exhibit 1, ¶ 4.

8 Petitioner was initially arrested in 2025 by the Arizona Highway Patrol for excessive
9 speeding. Exhibit 1, ¶ 5. On July 26, 2025, agents of United States Immigration and Customs
10 Enforcement (ICE), Enforcement and Removal Operations (ERO), apprehended Petitioner at
11 the Maricopa County Jail and brought her into federal custody of the Department of Homeland
12 Security (DHS) under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A).¹ Exhibit 1, ¶ 6. On
13 August 3, 2025, ERO placed Petitioner into removal proceedings, served her a Notice to
14 Appear, and charged her with removability under INA § 212(a)(6)(A)(i). Exhibit 1, ¶ 7. On
15 August 12, 2025, DHS filed a Form I-261 Amendment to the Notice to Appear and lodged the
16 additional charge under INA § 212(a)(7)(A)(i) for being present in the United States without
17 a valid immigrant document. Exhibit 1, ¶ 8.

18 On or around August 13, 2025, an Immigration Judge (IJ) sustained the charges of
19 removability against Petitioner. Exhibit 1, ¶ 9. Petitioner requested a bond hearing on August
20 18, 2025, and then withdrew it. Exhibit 1, ¶¶ 10-11. Petitioner filed a second request before
21 the IJ on September 10, 2025. Exhibit 1, ¶ 12. She filed an application for relief from removal
22 on September 11, 2025. Exhibit 1, ¶ 13. On September 16, 2025, the IJ denied Petitioner's
23 request for a bond, concluding that the IJ had no jurisdiction to grant bond, pursuant to *Matter*

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25
26 ¹ The government again acknowledges the Court's comment that DHS's Notice to
27 Appear dated August 3, 2025, marked a checkbox that Petitioner is "an alien present in the
28 United States who has not been admitted or paroled." Doc. 5. Section 1225(a)(1) defines
such a person as "an applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, the government
respectfully disagrees with the Court that the checkbox at issue indicates a governmental
stance that § 1226 governs Petitioner's detention.

1 of *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Exhibit 1, ¶ 14. On October 6, 2025,
2 Petitioner filed a Form EOIR-26 Notice of Appeal with the Board of Immigration Appeals
3 (BIA) challenging the bond decision. Exhibit 1, ¶ 15. The IJ conducted an individual merits
4 hearing on Petitioner’s applications for relief, on October 23, 2025. Exhibit 1, ¶ 16. The IJ
5 denied the applications for relief but granted Petitioner’s request for voluntary departure under
6 INA § 240B, 8 U.S.C. § 1229(c). Exhibit 1, ¶ 17. Petitioner reserved her right to appeal the IJ’s
7 decision and has until thirty days after the decision was issued to appeal. Exhibit 1, ¶ 18.
8 Petitioner remains currently in DHS custody under INA § 235(b)(2)(A), 8 U.S.C. §
9 1225(b)(2)(A), pending the outcome of her potential appeal of the IJ’s denial of her
10 applications for relief. Exhibit 1, ¶ 19.

11 Petitioner filed this Petition for Writ of Habeas Corpus on October 21, 2025. Doc. 1.
12 On October 22, 2025, the Court indicated its conclusion, without briefing, that the
13 government’s position regarding § 1225(b)(2)(A) was legally incorrect, and that the
14 government should therefore explain why Petitioner should not be “given a bond hearing under
15 § 1226.” Doc. 5 at 3.

16 **STANDARD OF REVIEW**

17 The burden is on the petitioner to show that her confinement is unlawful. *See Walker v.*
18 *Johnston*, 312 U.S. 275, 286 (1941). Specifically, here, Petitioner challenges her temporary
19 civil immigration detention pending completion of her removal proceedings. Judicial review
20 of immigration matters, including of detention issues, is limited. *I.N.S. v. Aguirre-Aguirre*, 526
21 U.S. 415, 425 (1999); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) (“the power
22 over aliens is of a political character and therefore subject only to narrow judicial review”).
23 The Supreme Court has thus “underscore[d] the limited scope of inquiry into immigration
24 legislation,” and “has repeatedly emphasized that over no conceivable subject is the legislative
25 power of Congress more complete than it is over the admission of aliens.” *Fiallo*, 430 U.S. at
26 792 (internal quotation omitted).

27 The plenary power of Congress and the Executive Branch over immigration necessarily
28 encompasses immigration detention, because the authority to detain is elemental to the

1 authority to deport, and because public safety is at stake. *See Shaughnessy v. United States*,
2 345 U.S. 206, 210 (1953) (“Courts have long recognized the power to expel or exclude aliens
3 as a fundamental sovereign attribute exercised by the Government's political departments
4 largely immune from judicial control.”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952)
5 (“Detention is necessarily a part of this deportation procedure.”).

6 LAW AND ARGUMENT

7 I. Statutory Framework.

8 A. Applicants for Admission.

9 “The phrase ‘applicant for admission’ is a term of art denoting a particular legal status.”
10 *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Section 1225(a)(1) states:

11 (1) Aliens treated as applicants for admission.— An alien present in the
12 United States who has not been admitted or who arrives in the United States
13 (whether or not at a designated port of arrival ...) shall be deemed for the
14 purposes of this Act an applicant for admission.

15 8 U.S.C. § 1225(a)(1).² Section 1225(a)(1) was added to the INA as part of the Illegal
16 Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Pub. L. No. 104-
17 208, § 302, 110 Stat. 3009-546. “The distinction between an alien who has effected an entry
18 into the United States and one who has never entered runs throughout immigration law.”
19 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

20 Before IIRIRA, “immigration law provided for two types of removal proceedings:
21 deportation hearings and exclusion hearings.” *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999)
22 (en banc). A deportation hearing was a proceeding against a noncitizen already physically
23 present in the United States, whereas an exclusion hearing was against a noncitizen outside of
24 the United States seeking admission. *Id.* Whether an applicant was eligible for “admission”
25 was determined only in exclusion proceedings, and exclusion proceedings were limited to
26 “entering” noncitizens — those noncitizens “coming . . . into the United States, from a foreign
27 port or place or from an outlying possession.” *Landon v. Plasencia*, 459 U.S. 21, 24 n.3 (1982)

28 ² Admission is the “lawful entry of an alien into the United States after inspection
and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13).

1 (quoting 8 U.S.C. § 1101(a)(13) (1982)). “[N]on-citizens who had entered without inspection
2 could take advantage of greater procedural and substantive rights afforded in deportation
3 proceedings, while non-citizens who presented themselves at a port of entry for inspection
4 were subjected to more summary exclusion proceedings.” *Hing Sum v. Holder*, 602 F.3d 1092,
5 1100 (9th Cir. 2010); *see also Plasencia*, 459 U.S. at 25-26.

6 Prior to IIRIRA, noncitizens who attempted to lawfully enter the United States were
7 in a worse position than noncitizens who crossed the border unlawfully. *See Hing Sum*, 602
8 F.3d at 1100; *see also* H.R. Rep. No. 104-469, pt. 1, at 225-229 (1996). IIRIRA “replaced
9 deportation and exclusion proceedings with a general removal proceeding.” *Hing Sum*, 602
10 F.3d at 1100. IIRIRA added Section 1225(a)(1) to “ensure[] that all immigrants who have not
11 been lawfully admitted, regardless of their physical presence in the country, are placed on
12 equal footing in removal proceedings under the INA.” *Torres*, 976 F.3d at 928; *see also* H.R.
13 Rep. 104-469, pt. 1, at 225 (explaining that § 1225(a)(1) replaced “certain aspects of the
14 current ‘entry doctrine,’” under which noncitizens who entered the United States without
15 inspection gained equities and privileges in immigration proceedings unavailable to
16 noncitizens who presented themselves for inspection at a port of entry). The provision “places
17 some physically-but-not-lawfully present aliens into a fictive legal status for purposes of
18 removal proceedings.” *Torres*, 976 F.3d at 928.

19 **B. Removal Proceedings under 8 U.S.C. § 1229(a).**

20 Removal proceedings under § 1229a are commonly referred to as “full removal
21 proceedings” or “240 removal proceedings” due to the statutory section of the INA in which
22 they appear. 8 U.S.C. § 1229a; INA § 240. The proceedings take place before an IJ, an
23 employee of the Department of Justice. 8 U.S.C. § 1229a(a)(1), (b)(1). Noncitizens in § 1229a
24 proceedings have an opportunity to apply for relief from removal. *See, e.g.*, 8 U.S.C. § 1158
25 (asylum); 8 U.S.C. § 1229b(b) (cancellation of removal for nonpermanent residents); 8 U.S.C.
26 § 1255 (adjustment of status). These are adversarial proceedings in which the noncitizen has
27 the right to hire counsel, examine and present evidence, and cross-examine witnesses. 8 U.S.C.
28 § 1229a(b)(4). Either party may appeal the IJ decision to the BIA. 8 U.S.C. § 1229a(b)(4)(C);

1 *see also* 8 C.F.R. § 1240.15. If the BIA issues a final order of removal, the noncitizen may
2 also seek judicial review at a U.S. Court of Appeals through a petition for review. 8 U.S.C. §
3 1252.

4 **C. Detention under the INA.**

5 The INA authorizes civil detention of noncitizens during removal proceedings and
6 “[d]etention is necessarily part of this deportation procedure.” *Carlson v. Landon*, 342 U.S.
7 524, 538 (1952); *see also* 8 U.S.C. § 1225(b), 1226(a), and 1231(a). “Where an alien falls
8 within this statutory scheme can affect whether his detention is mandatory or discretionary, as
9 well as the kind of review process available to him if he wishes to contest the necessity of his
10 detention.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).

11 **1. Detention under 8 U.S.C. § 1225.**

12 The INA mandates the detention of applicants for admission. 8 U.S.C. § 1225(b)(1)
13 and (b)(2); *see also Jennings v. Rodriguez*, 583 U.S. 281, 287 (Applicants for admission “fall
14 into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”).
15 As explained above, arriving noncitizens and noncitizens present less than two years are
16 subject to expedited removal. 8 U.S.C. § 1225(b)(1). If a noncitizen “indicates an intention to
17 apply for asylum,” the noncitizen proceeds through the credible fear process and is subject to
18 mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(ii); *see also* 8 U.S.C. § 1225(B)(1)(B)(iii)(IV).

19 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583
20 U.S. at 287. The Supreme Court recognized that 1225(b)(2) “applies to all applicants for
21 admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), a noncitizen “who is an
22 applicant for admission” shall be detained for a removal proceeding “if the examining
23 immigration officer determines that [the] alien seeking admission is not clearly and beyond a
24 doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Section 1225 does not provide for
25 noncitizens to be released on bond, but DHS has discretion to release any applicant for
26 admission on a “case-by-case basis for urgent humanitarian reasons or significant public
27 benefit.” 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

28

1 **2. Detention under 8 U.S.C. § 1226.**

2 Section 1226 provides that “an alien may be arrested and detained pending a decision
3 on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under §
4 1226(a), the government may detain a noncitizen during his removal proceedings, release him
5 on bond, or release him on conditional parole. By regulation, immigration officers can release
6 a noncitizen if the noncitizen demonstrates that he “would not pose a danger to property or
7 persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).

8 **II. Petitioner Is Subject to Mandatory Detention Under § 1225(b)(2).**

9 Section 1225 applies to “applicants for admission,” such as Petitioner, who are
10 defined as “alien[s] present in the United States who [have] not been admitted” or “who
11 arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one
12 of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).”
13 *Jennings*, 583 U.S. at 287.

14 Section 1225(b)(1) applies to arriving noncitizens and “certain other” noncitizens
15 “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
16 document.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These noncitizens are generally subject to
17 expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the noncitizen
18 “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers
19 will refer the noncitizen for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). A noncitizen
20 “with a credible fear of persecution” is “detained for further consideration of the application
21 for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the noncitizen does not indicate an intent to apply for
22 asylum, express a fear of persecution, or is “found not to have such a fear,” they are detained
23 until removed from the United States. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

24 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583
25 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under
26 § 1225(b)(2), a noncitizen “who is an applicant for admission” shall be detained for a removal
27 proceeding “if the examining immigration officer determines that [the] alien seeking
28 admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A);

1 *see Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens arriving in and seeking
2 admission into the United States who are placed directly in full removal proceedings, section
3 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal
4 proceedings have concluded.’”) (quoting *Jennings*, 583 U.S. at 299).

5 In *Jennings*, the Supreme Court evaluated the proper interpretation of 8 U.S.C.
6 § 1225(b) and stated that “[r]ead most naturally, §§ 1225(b)(1) and (b)(2) [] mandate detention
7 of applicants for admission until certain proceedings have concluded.” 583 U.S. at 297. The
8 Court noted that neither § 1225(b)(1) nor § 1225(b)(2) “impose[] any limit on the length of
9 detention” and “neither § 1225(b)(1) nor § 1225(b)(2) say[] anything whatsoever about bond
10 hearings.” *Id.* The Court added that the sole means of release for noncitizens detained pursuant
11 to §§ 1225(b)(1) or (b)(2) prior to removal from the United States is temporary parole at the
12 discretion of the Attorney General under 8 U.S.C. § 1182(d)(5). *Id.* at 300. The Court observed
13 that because noncitizens held under § 1225(b) may be paroled for “urgent humanitarian
14 reasons or significant public benefit,” “[t]hat express exception to detention implies that there
15 are no *other* circumstances under which aliens detained under § 1225(b) may be released.” *Id.*
16 (citations and internal quotation omitted) (emphasis in the original). Courts thus may not
17 validly draw additional procedural limitations “out of thin air.” *Id.* at 312. The Supreme Court
18 concluded: “In sum, §§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the
19 completion of applicable proceedings.” *Id.* at 302. As such, Petitioner is subject to mandatory
20 detention under 8 U.S.C. § 1225(b)(2).

21 The government acknowledges and addresses this Court’s comments regarding the
22 opinion by Judge Lanza. *Echevarria v. Bondi, et al.*, No. 2:25-cv-03252-PHX-DWL, 2025 WL
23 2821282 (D. Ariz. Oct. 3, 2025). The Court also points to a Massachusetts federal district court
24 decision which is now on appeal to the First Circuit. *Martinez v. Hyde*, --- F. Supp. 3d ---, 2025
25 WL 2084238 (D. Mass. Jul. 24, 2025), *appeal pending*, No. 25-1902 (1st Cir.). There are,
26 however, at least four federal courts that disagree with *Echevarria* and have joined what the
27 government acknowledges is a minority position on whether § 1225 applies to persons in
28 Petitioner’s position rather than § 1226. *Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL

1 2780351, at *9 (D. Neb. Sept. 30, 2025) (finding alien properly detained under § 1225(b)(2)
2 because he was present in United States without having been admitted, and thus an applicant
3 for admission under § 1225(a)); *Chavez v. Noem*, --- F. Supp. 3d ---, 2025 WL 2730228, at *4-
4 5 (S.D. Cal. Sept. 24, 2025) (same); *Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657,
5 at *1 (E.D. Va. Aug. 5, 2025) (same); *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913, at *2
6 (D. Mass. July 28, 2025) (upholding detention under § 1225(b)(2) of alien “present in the
7 country but [who] has not yet been lawfully granted admission”).

8 In *Echevarria*, Judge Lanza determined that the phrase “alien seeking admission” in
9 8 U.S.C. § 1225(b)(2)(A) implies a present-tense nature to the desire for admission, such that
10 a noncitizen who is already present in the United States cannot be “seeking admission”:

11 The word “seeking” is the present participle of the verb “seek.” It thus has a
12 temporal element—Petitioner must have been in the process of seeking
admission at the time of the inspection.

13 It is hard to see how Petitioner could be deemed to have been “seeking”
14 admission at the time of the encounter on July 2, 2025. By that point,
15 Petitioner had already been present in the United States for 24 years, having
16 arrived and entered in 2001. Moreover, under Respondents’ interpretation of
17 § 1225(a)(1), Petitioner became an “applicant for admission” in 2001, upon
18 his arrival and entry. Implicit in Respondents’ position, then, is that
19 Petitioner somehow existed in a perpetual state of “seeking” admission
during the 24-year period between when he first became an “applicant for
admission” in 2001, by virtue of his entry into the country, and when he was
encountered and inspected by an immigration officer in 2025.

20 *Echevarria*, 2025 WL 2821282, at *6 (internal citations omitted).

21 But this analysis neglects to properly consider other pieces of statutory context. The
22 government respectfully submits that the phrase “applicants for admission” carves out a subset
23 of those who are “seeking admission.” For example, elsewhere in section 1225 is language
24 stating that “[a]ll aliens who are applicants for admission *or otherwise seeking admission* or
25 readmission to or transit through the United States shall be inspected by immigration officers.”
26 8 U.S.C. § 1225(a)(3) (emphasis added). In other words, 8 U.S.C. § 1225(a)(3) shows that a
27 noncitizen may be “seeking admission” either by being an “applicant for admission,” or in
28 some different way. As discussed earlier, the phrase “applicant for admission” unambiguously

1 includes noncitizens who have already entered the United States. “In all but the most unusual
2 situations, a single use of a statutory phrase must have a fixed meaning.” *See Cochise*
3 *Consultancy, Inc. v. United States ex rel. Hunt*, 587 U.S. 262, 268 (2019) (referring to *Ratzlaf*
4 *v. United States*, 510 U.S. 135, 143 (1994)). “We therefore avoid interpretations that would
5 ‘attribute different meanings to the same phrase.’” *Id.* (quoting *Reno v. Bossier Parish School*
6 *Bd.*, 528 U. S. 320, 329 (2000)). Thus, the *Echevarria* court’s holding is not supported by the
7 text of the statute, and Respondents respectfully request this Court reach a different result.

8 The government points the Court to *Vargas Lopez*, 2025 WL 2780351. There, the
9 Nebraska federal district court denied a similar habeas petition brought by a noncitizen who
10 entered the United States in 2013 and was detained without bond and held that the petitioner
11 was properly detained under § 1225(b)(2) as a noncitizen within the “catchall” scope of
12 § 1225(b)(2) subject to detention without possibility of release on bond through § 1229a
13 removal proceedings. 2025 WL 2780351 at *6-9. The court noted that illegally remaining in
14 the country for years did not mean the petitioner, who “wish[ed] to stay in this country,” was
15 suddenly not an “applicant for admission.” *Id.* at *9. Additionally, “even if *Vargas Lopez*
16 might fall within the scope of § 1226(a), he certainly fits within the language of § 1225(b)(2)
17 as well.” *Id.*

18 The *Vargas Lopez* court also noted the “overlapping relationship between § 1225(b)
19 and § 1226(a) is not only consistent with the plain language of the two provisions but
20 consistent with the interpretation of the two provisions under *Jennings*.” *Id.* The court
21 determined that § 1226 does not contain language limiting its application “to aliens already
22 present in the United States.” *Id.* (comparing *Jennings*’ statements that United States
23 immigration law “authorizes the Government to detain certain aliens already in the country
24 pending the outcome of removal proceedings under §§ 1226(a) and (c)[,]” and that “§ 1226
25 applies to aliens already present in the United States[,]” 583 U.S. at 289 (first quote) and 303
26 (second quote), *with* 8 U.S.C. § 1226(a) (containing no reference to noncitizens “present” or
27 “already present” in the United States) and 8 U.S.C. § 1226(c) (containing no reference to
28 “criminal aliens” “present” or “already present” in the United States). The court determined

1 that “references to ‘aliens’ in § 1226 must be read to mean ‘alien[s] present in the United States
2 who ha[ve] not been admitted’ within the meaning of § 1225(a)(1) and within at least the
3 ‘catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) in
4 § 1225(b)(2).” 2025 WL2780351, at * 9 (citing *Jennings*, 583 U.S. at 287).

5 Similarly, the court in the Southern District of California denied relief sought by a
6 noncitizen who was detained under § 1225(b)(2) despite having been surreptitiously present
7 in the United States for years. *See Chavez*, 2025 WL 2730228. The court noted, among other
8 arguments, that “Section 1225(a)(1) expressly defines that ‘[a]n alien present in the United
9 States who has not been admitted . . . shall be deemed for purposes of this Act *an applicant*
10 *for admission.*’ *Id.* § 1225(a)(1).” *Id.* at *4 (emphasis in original). The court reasoned:

11 Petitioners do not contest that they are ‘alien[s] present in the United States
12 who ha[ve]not been admitted.’ By the plain language of § 1225(a)(1), then,
13 Petitioners are ‘applicants for admission’ and thus subject to the mandatory
14 detention provisions of ‘applicants for admission’ under § 1225(b)(2).

14 *Id.*

15 Finally, the government respectfully points the Court to footnote 2 of Judge
16 Nachmanoff’s opinion in *Pipa-Aquise* in the Eastern District of Virginia, noting that the DHS
17 there had marked the petitioner as “an arriving alien” on his Notice to Appear. 2025 WL
18 2490657, *1 n.2. This is the same point remarked upon by this Court in its OSC. The *Pipa-*
19 *Aquise* court, however, held that the checkbox mark “does not change the Court’s analysis,”
20 which concluded “that Petitioner is, by law, an applicant for admission subject to mandatory
21 detention under 8 U.S.C. § 1225(b).” *Id.*

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CONCLUSION

In light of the above, Respondents respectfully request the Court deny Petitioner's
Petition for Writ of Habeas Corpus.

Respectfully submitted on October 29, 2025.

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s/Neil Singh
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