UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-25159-CIV-WILLIAMS

JUAN CARLOS GARCIA BERNAL,

Petitioner,

v.

ROGER MORRIS, Acting Warden of the Miami Federal Detention Center, *et al.*,

Respondents.
_____/

RESPONDENTS' RETURN IN OPPOSITION TO THE PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR ORDER TO SHOW CAUSE

Respondents, by and through the undersigned Assistant United States Attorney, submit the following return in opposition to the Petition for Writ of Habeas Corpus and Request for Order to Show Cause [DE 1] (Petition); and, herein, seek denial of the same.[1]

Introduction

By way of the Petition, Petitioner, Juan Carlos Garcia Bernal, does not contest that he is subject to immigration detention; rather, he is merely challenging the statutory basis for his detention. Petitioner argues that § "1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a)," which also provides for immigration detention but also allow for a bond hearing. Petition ¶5. By way of relief, in relevant part, Petitioner asks this Court to "[i]ssue a Writ of Habeas Corpus requiring the Respondents release Petitioner or, in the

[1] Respondents recognize that this Court has rejecting similar arguments in granting habeas petitions previously filed with this Court. *See, e.g., Alvarez v. Morris*, Case No. 25cv24806 (S.D. Fla.). Nonetheless, Respondents maintain and preserve these arguments for the record in this case.

alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days." *Id.* p.14.[2] Accordingly, this case comes down to a question of statutory interpretation. Specifically, what statutory provision controls Petitioner's detention.

Section 1225(b)(2)(A) mandates detention for "an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Pursuant to § 1225(a), "[a]n alien present in the United States who has not been admitted … shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner "is a citizen of Cuba" who "has resided in the United States since approximately February 2020." Petition ¶¶14, 41. "Petitioner is charged with … having entered the United States without admission or inspection." Petition ¶2. Petitioner does not allege that he has lawful status in the United States or that he was admitted into the United States. Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.

Analysis

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an "applicant for admission" as either an "alien *present in the United States who has not been admitted* or [an alien] who arrives in the United States []whether or not at a designated port of arrival." 8 U.S.C. § 1225(a)(1) (emphasis added); *see generally Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United States is caught at the border

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[2] Although Petitioner seeks release, he makes no arguments that would support his release. Rather, Petitioner merely argues that his detention is controlled by § 1226(a), not § 1225(b)(2)(A). Even under § 1226(a), Petitioner is subject to detention unless he is released on bond.

or inside the country, he or she will still be required to prove eligibility for admission."). Accordingly, by its very definition, the term "applicant for admission" as used in § 1225 includes two categories of aliens: (1) aliens, such as Petitioner, present in the United States without admission; and (2) arriving aliens. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("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"); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission … includes, inter alia, any alien present in the United States who has not been admitted" (citing 8 U.S.C. § 1225(a)(1))).

All aliens who are applicants for admission "shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection"). An applicant for admission seeking admission at a United States POE "must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal … and is entitled, under all of the applicable provisions of the immigration laws … to enter the United States." 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. § 1229a(c)(2)(A) (describing the related burden of an applicant for admission in removal proceedings). "An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated port-of-entry [(POE)] … is subject to the

provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a]." 8 C.F.R. § 235.1(f)(2).

Here, Petitioner does not allege that he was admitted into the United States or that he presented himself at a POE. Rather, Petitioner merely alleges that he "is a citizen of Cuba" "who previously entered and [is] now residing in the United States." Petition ¶¶5, 14. Petitioner is, therefore, an alien present without admission and, consequently, an applicant for admission.

Pursuant to § 1225(b)(2), "an alien who is an applicant for admission," such as Petitioner, "shall be detained for a proceeding under section 1229a of this title" "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). Aliens present in the United States without admission placed in § 1229a removal proceedings are applicants for admission and are "seeking admission," as contemplated in § 1225(b)(2)(A). The term "seeking admission" as used in § 1225(b)(2)(A) refers to legal admission, not mere entry into the United States. Such aliens are subject to mandatory detention under § 1225(b)(2)(A) and are not eligible for release on bond.

On September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) confirming Respondent's reading of § 1225(b)(2). 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." *Yajure Hurtado*, 29 I&N Dec. at 220.[3] The BIA concluded that

[3] Previously, as alluded to in BIA decisions, the Department of Homeland Security and the Department of Justice interpreted § 1226(a) to be an available detention authority for aliens

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 number of years. *Id.*; *see Martinez v. Att'y Gen. of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012) (concluding that 1996 amendments to the INA were passed to address the unintended and undesirable result of the pre-1996 law in which "non-citizens who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings, while non-citizens who actually presented themselves to authorities for inspection were restrained by more summary exclusion proceedings" (internal quotation marks omitted)). 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.'" *Yajure Hurtado*, 29 I&N Dec. 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).

A review of the 1996 amendments to the INA support the reading advocated by the Respondents here. "The statutory definition of an 'applicant for admission' at … § 1225(a)(1), was added to the INA in 1996, with the passage of the Illegal Immigration Reform and

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present without admission placed directly in § 1229a removal proceedings. *See, e.g.*, *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 747 (BIA 2023); *Matter of R-A-V-P-*, 27 I&N Dec. 803, 803 (BIA 2020); *Matter of Garcia-Garcia*, 25 I&N Dec. 93, 94 (BIA 2009); *Matter of D-J-*, 23 I&N Dec. 572 (A.G. 2003). However, as noted by the BIA, the BIA had not previously addressed this issue in a precedential decision. *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 216.

Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 302(a), 110 Stat. 3009-546, 3009-579." *Yajure Hurtado*, 29 I&N Dec. at 222.

> Prior to the 1996 amendment, the INA assessed status on the basis of "entry" as opposed to "admission." *See* 8 U.S.C. § 1101(a)(13) (1994) (defining "entry" as "any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise"). Non-citizens who had "entered" the United States were processed for deportation; those who had not "entered" were sent into exclusion proceedings. Charles Gordon, Stanley Mailman & Stephen Yale–Loehr, 1–1 IMMIGRATION LAW AND PROCEDURE § 1.03(2)(b) (2010). As a result, "non-citizens who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings," while non-citizens who actually presented themselves to authorities for inspection were restrained by "more summary exclusion proceedings." *Hing Sum*, 602 F.3d at 1100. To remedy this unintended and undesirable consequence, the IIRIRA substituted "admission" for "entry," and replaced deportation and exclusion proceedings with the more general "removal" proceeding.

Martinez, 693 F.3d at 413 n.5 (quoting *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010)). If, as Petitioner argues, § 1225(b)(2)(A) detention does not apply to him because he entered the United States without presenting himself for inspection or admission, he would be afforded greater substantive rights—specifically permissive detention under § 1226(a) and a bond hearing—than non-citizens who followed the law and presented themselves to authorities for inspection. This is the undesirable result Congress was seeking to avoid by passing the IIRIRA.

Respondent's reading accords with the Supreme Court's ruling in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to "impos[e] an implicit 6-month time limit on an alien's detention" under §§ 1225(b) and 1226. *Id.* at 292. The Supreme Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Supreme Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with

Respondent's reading, the Supreme Court recognized in its description of § 1225(b) that § "1225(b)(2) .... serves as a catchall provision that applies to all applicants for admission not covered by §1225(b)(1)." *Id.* at 287.

Accordingly, for the reasons discussed above, Petitioner is an applicant for admission and an alien seeking admission and is therefore subject to detention under § 1225(b)(2)(A) and ineligible for release on bond.

WHEREFORE, for the foregoing reasons, the Verified Petition for Writ of Habeas Corpus and Request for Order to Show Cause should be denied.

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

Anthony Erickson-Pogorzelski
ANTHONY ERICKSON-POGORZELSKI
ASSISTANT U.S. ATTORNEY
99 N.E. 4th Street, 3rd Floor
Miami, Florida 33132
Tel: (305) 961-9296
Fla. Bar 619884
Email: anthony.pogorzelski@usdoj.gov