

District Judge Tana Lin
Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PETRONA TOMAS MANUEL, *et al.*,

Petitioners,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02353-TL-MLP

FEDERAL RESPONDENTS'¹ RETURN

Noted for Consideration:
December 6, 2025

I INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioners Petrona Tomas Manuel, Eduard Isai Martinez Gamez, Martha Dalila Escoria Pineda, Maria Luisa Choello Ramos, and Carlos Fabian Navarrete Acosta at the Northwest ICE Processing Center ("NWIPC") pursuant to 8 U.S.C. § 1225(b).² The plain language of the Immigration and Nationality Act ("INA") mandates that Petitioners – who are present in the United States without having been admitted –

¹ Respondent Bruce Scott is not a federal employee and not represented by undersigned counsel.

² A court in this District has found that mandatory detention under Section 1225(b) is unlawful for certain noncitizens (the "Bond Denial Class"). *Rodriguez Vasquez v. Bortock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). The Government has appealed this decision. See Case No. 3:25-cv-05240-TMC, Dist. No. 71, Notice of Appeal. Petitioners are not part of the Bond Denial Class because they were apprehended upon arrival when they entered the United States.

1 are correctly considered as “applicants for admission” and therefore subject to detention under 8
2 U.S.C. § 1225(b). *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018) (“Read most naturally, §§
3 1225(b)(1) and (b)(2) thus mandate detention of applicants of admission until certain proceedings
4 have concluded.”). The best reading of the statute is that Congress insured that all noncitizens
5 would be inspected by immigration authorities by treating noncitizens who are present in the
6 United States without having been inspected and admitted as applicants for admission.

7 Each Petitioner entered the United States separately and have no factual overlap. But the
8 main facts in this case are undisputed. Petitioners were apprehended shortly after entering the
9 United States without inspection or parole. They were subsequently released and participated in
10 non-detained removal proceedings. In the last two months, ICE redetained each Petitioner
11 separately. They assert that their redetention violates due process because they were not provided
12 written notice and a pre-deprivation hearing. See Pet., ¶¶ 94-97.

13 This Return sets forth general law concerning Section 1225(b) and redetention. However,
14 this brief does not provide individual factual analyses for each Petitioner. To do so, the U.S.
15 Attorney’s Office would have had to obtain five separate A-Files and then review those files, as
16 well as work with ICE to investigate the facts and circumstances for five separate individuals.
17 Unfortunately, the expedited briefing schedule issued (Dkt. No. 13) did not provide sufficient time
18 for these actions to be accomplished.³ This Office does not yet have Petitioners’ A-Files and
19 therefore refers the Court to the declaration and documents provided by ICE for the basic facts
20 here. See Declaration of Christopher Sica.

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23 ³ The Court issued an “Order Granting Ex Parte Motion for Order to Show Cause and Issue Expedited Briefing
24 Schedule.” Dkt. No. 13. Given the timing, it is unclear if the Court considered Federal Respondents’ response to
Petitioners’ request for an expedited briefing schedule, which sought a longer briefing schedule, before issuing the
Order. Dkt. No. 11.

1 II. LEGAL BACKGROUND

2 A. Applicants for Admission

3 "The phrase 'applicant for admission' is a term of art denoting a particular legal status."

4 *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Section 1225(a)(1) states:

5 (1) Aliens treated as applicants for admission. – An alien present in the United States who
6 has not been admitted or who arrives in the United States (whether or not at a
7 designated port of arrival ...) shall be deemed for the purposes of this Act an applicant
8 for admission.

8 8 U.S.C. § 1225(a)(1).⁴ Section 1225(a)(1) was added to the INA as part of the Illegal Immigration
9 Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). Pub. L. No. 104-208, § 302, 110
10 Stat. 3009-546. "The distinction between an alien who has effected an entry into the United States
11 and one who has never entered runs throughout immigration law." *Zadvvydas v. Davits*, 533 U.S.
12 678, 693 (2001).

13 Before IIRIRA, "immigration law provided for two types of removal proceedings:
14 deportation hearings and exclusion hearings." *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999)
15 (en banc). A deportation hearing was a proceeding against a noncitizen already physically present
16 in the United States, whereas an exclusion hearing was against a noncitizen outside of the United
17 States seeking admission. *Id.* (quoting *Landon v. Plasencia*, 459 U.S. 21, 25 (1982)). Whether an
18 applicant was eligible for "admission" was determined only in exclusion proceedings, and
19 exclusion proceedings were limited to "entering" noncitizens – those noncitizens "coming ... into
20 the United States, from a foreign port or place or from an outlying possession." *Plasencia*, 459
21 U.S. at 24 n.3 (quoting 8 U.S.C. § 1101(a)(13) (1982)). "[N]on-citizens who had entered without
22 inspection could take advantage of greater procedural and substantive rights afforded in
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24 ⁴ 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 deportation proceedings, while noncitizens who presented themselves at a port of entry for
2 inspection were subjected to more summary exclusion proceedings.” *Hing Sum v. Holder*, 602
3 F.3d 1092, 1100 (9th Cir. 2010); *see also Plasencia*, 459 U.S. at 25-26. Prior to IIRIRA,
4 noncitizens who attempted to lawfully enter the United States were in a worse position than
5 noncitizens who crossed the border unlawfully. *See Hing Sum*, 602 F.3d at 1100; *see also* H.R.
6 Rep. No. 104-469, pt. 1, at 225-229 (1996). IIRIRA “replaced deportation and exclusion
7 proceedings with a general removal proceeding.” *Hing Sum*, 602 F.3d at 1100.

8 IIRIRA added Section 1225(a)(1) to “ensure[] that all immigrants who have not been
9 lawfully admitted, regardless of their physical presence in the country, are placed on equal footing
10 in removal proceedings under the INA.” *Torres*, 976 F.3d at 928; *see also* H.R. Rep. 104-469, pt.
11 1, at 225 (explaining that Section 1225(a)(1) replaced “certain aspects of the current ‘entry
12 doctrine,’” under which noncitizens who entered the United States without inspection gained
13 equities and privileges in immigration proceedings unavailable to aliens who presented themselves
14 for inspection at a port of entry). The provision “places some physically-but not-lawfully present
15 noncitizens into a fictive legal status for purposes of removal proceedings.” *Torres*, 976 F.3d at
16 928.

17 **B. Detention Under 8 U.S.C. § 1225(b)**

18 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the
19 Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.”
20 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep’t of Homeland Sec. v. Thuraissiglam*,
21 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims
22 and expeditiously removing the aliens making such claims from the country.”). Section 1225
23 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in
24 the United States who [have] not been admitted” or noncitizens “who arrive[] in the United

1 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for
2 admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by
3 § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287.

4 Section 1225(b)(1) applies to “arriving aliens” and “certain other” noncitizens “initially
5 determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.”
6 *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(2) is “broader” and “serves as a catchall
7 provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by
8 § 1225(b)(1).” *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is
9 subject to mandatory detention pending full removal proceedings “if the examining immigration
10 officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to
11 be admitted.” 8 U.S.C. § 1225(b)(2)(A). While Section 1225 does not provide for noncitizens to
12 be released on bond, DHS has the sole discretionary authority to release any applicant for
13 admission on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.”
14 *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

15 III. ARGUMENT

16 Petitioners are applicants for admission subject to mandatory detention. The INA, 8 U.S.C.
17 § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible and deportable noncitizens
18 and to ensure that noncitizens who are removable are in fact removed from the United States.
19 “[D]etention necessarily serves the purpose of preventing deportable [] aliens from fleeing prior
20 to or during their removal proceedings, thus increasing the chance that if ordered removed, the
21 aliens will be successfully removed.” *Demore v. Kim*, 538 U.S. 510, 528 (2003). The Supreme
22 Court has long held that deportation proceedings “would be in vain if those accused could not be
23 held in custody pending the inquiry” of their immigration status. *Wong Wing v. United States*, 163
24 U.S. 228, 235 (1896). Congress intended for all applicants for admission to be detained during the

1 course of their removal proceedings. See *Jennings*, 583 U.S. at 299 (interpreting the “plain
2 meaning” of sections 1225(b)(1) and (2) to mean that applicants for admission be mandatorily
3 detained for the duration of their immigration proceedings).

4 The plain language of the statute is clear: Petitioners are subject to detention under Section
5 1225(b) because they are applicant for admission. *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216,
6 220 (BIA 2025). Section 1225(b)(1) indisputably requires the mandatory detention of arriving
7 aliens for the duration of their credible fear determine determination and removal proceedings,
8 even if they are subsequently paroled. 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 1001.1(q).
9 Section 1225(b)(2)(A) requires mandatory detention of “an alien who is an applicant for
10 admission, if the examining immigration officer determines that an alien seeking admission is not
11 clearly and beyond a doubt entitled to be admitted[.]” 8 U.S.C. § 1225(b)(2)(A). The INA
12 specifies that “[a]n alien present in the United States who has not been admitted . . . shall be deemed
13 for purposes of this Act an applicant for admission.” 8 U.S.C. § 1225(a)(1). Petitioners do not
14 dispute that they are noncitizens who are present in the United States without having been
15 admitted. Thus, they are “applicants for admission” and subject to mandatory detention under
16 Section 1225(b).

17 Pre-deprivation hearings to determine whether Petitioners were flight risks or dangerous
18 were not required prior to their arrest. There is no statutory or regulatory requirement for a hearing
19 before an individual in removal proceedings is redetained, and the Supreme Court has warned
20 courts against reading additional procedural requirements into the Immigration and Nationality
21 Act. See *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific
22 bond hearing requirement into 8 U.S.C. § 1231(a)(6) because “reviewing courts . . . are generally
23 not free to impose [additional procedural rights] if the agencies have not chosen to grant them”)
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1 (quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435
2 U.S. 519, 524 (1978) (cleaned up)).

3 Federal Respondents acknowledge that district courts have recently held that due process
4 requires a pre-detention hearing to determine if a noncitizen is a flight risk or a danger to the
5 community prior to redetention. See, e.g., *E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL
6 2402130, at *5 (W.D. Wash. Aug. 19, 2025). Respectfully, Federal Respondents disagree with
7 these decisions. Each Petitioner is subject to mandatory detention. Thus, analyses of their
8 potential flight risk or dangerousness would be irrelevant, and hearings would be futile.

9 Federal Respondents recognize the “weighty liberty interests implicated by the
10 Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at
11 *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released
12 from immigration detention have a protected liberty interest in remaining out of custody, the
13 weight of that liberty must be considered in the broader picture of the immigration system, which
14 has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After all, “[t]he
15 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has
16 ‘firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that
17 would be unacceptable if applied to citizens.’” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206
18 (9th Cir. 2022) (quoting *Demore v. Kbn*, 538 U.S. 510, 522 (2003)). As the Supreme Court has
19 explained, “[I]n the exercise of its broad power over naturalization and immigration, Congress
20 regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426
21 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly “recognized detention during
22 deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*,
23 538 U.S. at 523.

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CONCLUSION

For the foregoing reasons, Federal Respondents respectfully request that this Court deny the Petition.

DATED this 2nd day of December, 2025.

Respectfully submitted,

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I certify that this memorandum contains 2,076 words, in compliance with the Local Civil Rules.