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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BASHIR KHALIF ABDI Petitioner, v. Eric Klang, Sheriff, Crow Wing County , MN; Samuel Olson, Director of St. Paul Field Office, U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the U.S. Department of Homeland Security; and Pamela Bondi, Attorney General of the United States, in their official capacities, Respondents.	Case No. 25-4559 **REPLY TO THE GOVERNMENTS RESPONSE**

INTRODUCTION

"This District is united in finding that those who are already in the United States at the time they are detained by ICE are governed by the provisions of 8 U.S.C. § 1226, not § 1225(B)." *Beltran v. Bondi*, No. 25-04604, 2025 LX 565454, at *9 (D. Minn. Dec, 23, 2025).

The government relies on two false premises in their response – the Petitioner is detained under 8 U.S.C. § 1225(b)(1); and, even if he were detained under 8 U.S.C. §

1225(b)(2), he is still subject to mandatory detention. Both of these arguments misread § 1225. Mr. Abdi cannot be detained under § 1225(b)(1) because he was not deemed inadmissible because of fraud, misrepresentation, or lack of valid documents. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Additionally, § 1225(b)(1) does not authorize indefinite detention pending asylum proceedings. Mr. Abdi cannot be detained under 8 U.S.C. § 1225(b)(2) because his arrest did not happen when he was inspected and detained while entering the United States. If Mr. Abdi is subject to detention, it is under 8 U.S.C. § 1226 and therefore making him bond-eligible.

Accepting the government's position would authorize indefinite civil detention without a bond hearing, potentially lasting years, based solely on a noncitizen's request for asylum. The Supreme Court has repeatedly warned against such interpretations. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Jennings*, 583 U.S. at 296. Under the doctrine of constitutional avoidance, the statute must be construed to permit bond hearings absent a clear statement from Congress to the contrary. *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2022 WL 2802947, at *7.

<u>Detainment Under 8 U.S.C. § 1225(b)(1)</u>

The Supreme Court in *Jennings v. Rodriguez* explained that an applicant for admission is put into one of two categories, either § 1225(b)(1) or § 1225(b)(2). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). A noncitizen is an applicant for admission after they have been inspected by an immigration officer. *Id.* at 287. They further explained that to fall under the § 1225(b)(1) category, an applicant must *initially* be deemed inadmissible for fraud, misrepresentation, or lack of valid documents. *Id.* (Emphasis added).

Mr. Abdi does not fall under this category. As stated in their response brief, Mr. Abdi was not inspected when he entered the United States. ECF No. 10 at 2. This would automatically bar Mr. Abdi from being placed in this category. *Jennings*, 583 U.S. at 287. Even if the non-inspection were ignored, Mr. Abdi was not initially deemed inadmissible due to one of the three ways mentioned above. Mr. Abdi must have been deemed inadmissible when he was initially detained on September 23, 2024. This did not happen and therefore Mr. Abdi could not be detained under § 1225(b)(1).

Even still, § 1225(b)(1) only authorizes a temporary detention for purposes of conducting a credible-fear screening. Once that screening is complete and an applicant is placed into removal proceedings, the statute is silent as to its continued mandatory detention. As the Supreme Court explained in *Jennings*, although § 1225(b) mandates a detention at the threshold stage, it "does not on its face authorize prolonged detention without a bond hearing." *Jennings* 583 U.S. at 296-297. Nothing in § 1225(b)(1)(B)(ii) states that a noncitizen who has passed a credible fear interview must remain detained for the entire pendency of removal proceedings. The government's interpretation improperly converts a temporary screening mechanism into an indefinite detention regime—
an outcome the statute does not support.

<u>Detainment under 8 U.S.C. § 1225(b)(2)</u>

As stated in our complaint, numerous courts have held that the government has misclassified people and detained them under § 1225(b)(2). An applicant for admission is subject to detainment under § 1225(b)(2) when they have arrived and been inspected. *Jennings* 583 U.S. at 287; *Reyes v Raycraft*, No. 25-cv-12546, 2025 LEXIS 332553 at *13

(E.D. Mich, Sep. 9, 2025). Mr. Abdi was not inspected when he arrived in the United States. Furthermore, Courts have shown that § 1225(b)(1) and (b)(2) are meant for a detainment of individuals who are *arriving* into the United States, not detainment of individuals who have already *arrived* into the United States. *Pereira v. O'Neill*, No. 25-6543-KSM, 2025 U.S. Dist. LEXIS 252833, at *18-19 (E.D. Pa. Dec. 8, 2025). A noncitizen has not been considered to be "arriving" under § 1225 when they "have been living in the country for months or…years, but who entered without inspection." *Beltran v. Bondi*, No. 24-04604, 2025 LEXIS 565454 at *7 (D. Minn. Dec. 23, 2025).

This Court squarely rejected the government's expansive reading of § 1225(b)(2) in *Belsai D.S. v. Bondi*, holding that mandatory detention under that provision applies only to individuals "presently attempting to gain admission into the United States." *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2022 WL 2802947, at *6-7 (D. Minn. Oct. 1, 2025). The Court explained that once a noncitizen has crossed the border, been apprehended, and placed into proceedings, they are no longer "seeking admission" within the meaning of the statute. *Id.* at *7. Rather, they are physically present and subject to the general detention framework of § 1226. *Id.* Other courts in this District have reached the same conclusion, including less than a week ago in *Beltran v. Bondi* which stated "[t]his District is united in finding that those who are already in the United States at the time they are detained by ICE are governed by the provisions of 8 U.S.C. § 1226, not § 1225(B). *Beltran v. Bondi*, No. 25-04604, 2025 LX 565454, at *9 (D. Minn. Dec, 23, 2025. *See*, e.g., *Mohamed v. Garland*, No. 24-cv-1978, 2024 WL 4312379, at *5 (D. Minn. Sept. 27, 2024) (holding that § 1225(b) does not apply once the noncitizen has been released into the interior and placed

in proceedings); *Ali v. Garland*, No. 24-cv-1121, 2024 WL 3898721, at *4–5 (D. Minn. Aug. 21, 2024) (rejecting government's argument that asylum applicants remain subject to mandatory detention under § 1225(b)).

However, the government argues that because Mr. Abdi seeks asylum, he is necessarily "seeking admission." That argument was explicitly rejected in *Belsai*, which held that the phrase "seeking admission" refers to a person's present physical posture at the border, not to the legal relief sought in removal proceedings. *Id.* at *6-7. As this Court explained, an asylum application does not retroactively transform a noncitizen into an arriving alien, nor does it render the individual perpetually subject to mandatory detention. *Id.* at *7. Construing an "applicant for admission" as always "seeking admission" would render the inclusion of "seeking admission" as superfluous. *Pereira v. O'Neill*, No. 25-6543-KSM, 2025 U.S. Dist. LEXIS 252833, at *19-20 (E.D. Pa. Dec. 8, 2025). Additionally, the provisions immediately following § 1225(b)(2)(A) are scenarios that would only happen at the time a noncitizen is actively attempting to enter the country as opposed to already being in the country. *Id.* at *21.

Mr. Abdi's detention cannot be pursuant to § 1225(b)(2). On December 4, 2025, Mr. Abdi was apprehended after being in the country for a year, not while actively attempting to enter the country. He was, and is, an applicant for admission but is not actively seeking admission in the meaning of § 1225(b)(2). Therefore, Mr. Abdi's detention under § 1225(b)(2) is unlawful.

<u>Detention under 8 U.S.C. § 1226</u>

If Mr. Abdi is subject to detention, it is under § 1226 which does not require

mandatory detention. § 1226 is meant for noncitizens who have already entered the United States and did not receive an inspection. *Pereira v. O'Neill*, No. 25-6543-KSM, 2025 U.S. Dist. LEXIS 252833, at *18-19 (E.D. Pa. Dec. 8, 2025); *Reyes v Raycraft*, No. 25-cv-12546, 2025 LEXIS 332553 at *13 (E.D. Mich, Sep. 9, 2025). As stated above, Mr. Abdi has resided in the United States for over a year before his arrest, and he did not receive an inspection. Therefore, Mr. Abdi is not mandatorily detained and is bond-eligible.

Government's Interpretation Based on Matter of Yajure Hurtado

The government relies, in part, on the Board of Immigration Appeals decision in *Matter of Yajure Hurtado* which adopted their interpretation that an "applicant for "admission" is a person in the country without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). This position is no longer tenable after numerous courts across the country have determined to the contrary. Of these courts, the court in *Bautista v. Santacruz* explicitly states "[s]uch an argument relies on the assumption that 'applicants for admission' encompasses all noncitizens coming into and already in the United States…But this cannot be correct." *See Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 Lexis 523334 at *28 (C.D. Cal. Dec. 18, 2025).

Conclusion

Petitioner is not subject to mandatory detention under either § 1225(b)(1) or § 1225(b)(2), his detention is governed by § 1226(a), which entitles him to an individualized bond hearing before an immigration judge. The Court should therefore grant the writ and order the government to provide Petitioner with a prompt bond hearing.

Respectfully submitted,

Dated: December 29, 2025

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Bashir Khalif Abdi, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 29th day of December 2025.

/s/Abdinasir M Abdulahi
Attorney for Petitioner