

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-03969-DDD-STV

MARIO JOSE TUMAX CANIZ,

Petitioner,

v.

JUAN BALTAZAR, Denver Contract Detention Facility,
ROBERT HAGAN, Enforcement and Removal Operations, Denver Field Office, Immigration
and Customs Enforcement,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security,
U.S. DEPARTMENT OF HOMELAND SECURITY, and
PAMELA BONDI, U.S. Attorney General,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE

Pursuant to the Court's January 7, 2025, Order (ECF No. 6), Respondents respond to Petitioner's Application for a Writ of Habeas Corpus.

Petitioner asserts violations of the Immigration and Nationality Act (INA) and due process under the Fifth Amendment of the Constitution, alleging that Respondents have unlawfully detained him under 8 U.S.C. § 1225(b)(2)(A). *See* ECF No. 2, ¶¶51-57. He claims that he is not subject to detention under Section 1225(b)(2)(A) but is instead subject to 8 U.S.C. § 1226(a). *See id.*, ¶52.

The Application should be denied. Petitioner is an applicant for admission within the scope of Section 1225. Because he is an applicant for admission and thus subject to detention under Section 1225(b)(2)(A), the Court should deny his habeas petition.

INTRODUCTION

The Department of Homeland Security is detaining Petitioner under a statutory provision of the INA, 8 U.S.C. § 1225(b)(2)(A), that requires detention of an “applicant for admission” if an “examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” An alien is deemed an “applicant for admission” if he entered without inspection into and has never been admitted to the United States. 8 U.S.C. § 1225(a)(1).

Petitioner claims he is not an applicant for admission subject to detention under Section 1225(b)(2)(A) but is instead subject to a different provision, 8 U.S.C. § 1226(a). The practical difference between the two sections is that aliens detained under Section 1225(b)(2)(A) are ordinarily *not* eligible for bond hearings, while those detained under Section 1226(a) are. Based on the premise that Petitioner’s detention is governed by Section 1226(a), he requests his release or, alternatively, a bond hearing. *See* ECF No. 2 at 12-13.

The Court should find that Petitioner is an applicant for admission within the scope of Section 1225 based on the text of the statute and the Supreme Court’s interpretation of that statute in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). Respondents recognize that courts are divided on the proper interpretation of Section 1225 but maintain that the proper reading of the statutory text and *Jennings* supports their interpretation of Section 1225.

The Court should therefore deny Petitioner’s Application because he is properly subject to detention pursuant to Section 1225(b)(2)(A).

BACKGROUND

I. Factual Background

Petitioner is a native and citizen of Guatemala. *See* Exhibit 1 (Declaration of N. Horn), ¶4. U.S. Customs and Border Protection apprehended Petitioner at or near Hidalgo, Texas, on August 26, 2013. *See id.*, ¶5. Petitioner was never inspected and admitted to, or paroled into, the United States. *See id.*, ¶6. As a result, on August 27, 2013, Petitioner was charged with being deportable as an alien present in the United States without admission or parole. *See id.*, ¶7.

In August 2013, Petitioner was an unaccompanied alien child, so he was transferred from Department of Homeland Security custody to the custody of the Department of Health and Human Services pursuant to 8 U.S.C. § 1232. *See id.*, ¶¶5, 8. He was later released to the custody of a relative. *See id.*, ¶9.

On November 13, 2025, immigration officers encountered Petitioner, who is no longer an unaccompanied alien child, in Florida. *See id.*, ¶¶13, 14. Because Petitioner has not been inspected and admitted to, or paroled into, the United States, Respondents have detained Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A) since November 13, 2025. *See id.*, ¶¶13, 15.

Petitioner has been in removal proceedings following his detention. On January 26, 2026, he appeared before an immigration judge in Denver, Colorado, for a master calendar hearing in removal proceedings, but the immigration judge reset the hearing. *See id.*, ¶¶13, 17. Petitioner's next master calendar hearing is scheduled for February 11, 2026. *See id.*, ¶18. Petitioner currently remains detained in Denver, Colorado, and his removal proceedings remain pending. *See id.*, ¶19.

II. Procedural Background

Petitioner filed the Application on December 12, 2025. *See* ECF No. 2. He asserts two claims: (1) an INA violation based on his detention under Section 1225(b)(2)(A); and (2) a Fifth Amendment due-process violation based on the lack of a bond hearing. *See id.*, ¶¶51-57. As relief, Petitioner requests his release or, in the alternative, a bond hearing. *See id.* at 12-13.

On January 7, the Court ordered Respondents to “show cause within thirty (30) days from the date of this Order why the Application for a writ of habeas corpus should not be granted.” ECF No. 6 at 1 (emphasis omitted).

LEGAL BACKGROUND

The question in this case is whether Petitioner is subject to mandatory detention under 8 U.S.C. § 1225. In *Jennings v. Rodriguez*, the Supreme Court analyzed the scope of Section 1225 and assessed whether certain aliens are entitled to periodic bond hearings during prolonged detention. In making that assessment, “[t]he primary issue [wa]s the proper interpretation of §§ 1225(b), 1226(a), and 1226(c).” 583 U.S. at 289. That is the primary issue in this case, too. Thus, the Supreme Court’s explanation of Section 1225 in *Jennings* should guide the Court’s analysis here.

The *Jennings* decision established the following interpretive points as to Section 1225.

I. Section 1225 applies to “applicants for admission,” which includes aliens who are unlawfully present and never admitted.

Section 1225 provides that “[a]n alien present in the United States who has not been admitted ... shall be *deemed* for purposes of this chapter [to be] an applicant for admission.” 8 U.S.C. § 1225(a)(1) (emphasis added). As the Supreme Court explained, “[u]nder ... 8 U.S.C. § 1225, an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not

been admitted,' is *treated as* 'an applicant for admission.'" *Jennings*, 583 U.S. at 287 (emphasis added). In short, aliens who are present in the country and were never lawfully admitted are "treated as"—*i.e.*, they are "deemed" to be—"applicants for admission."

II. "Applicants for admission" are not limited to aliens who have submitted an immigration application.

The *Jennings* Court's discussion of "applicant for admission" made clear that the term is not limited to aliens who have submitted an immigration application. Rather, the *status* of being an applicant for admission is one way that an alien may be "seeking admission": "All aliens ... who are applicants for admission *or otherwise seeking admission* ... shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3) (emphasis added). In other words, such aliens are "treated as" "applicant[s] for admission." *Jennings*, 583 U.S. at 287. Thus, an alien can seek admission simply by meeting the definition of an applicant for admission *or* can "otherwise" seek admission by directly applying for admission.

While the Court in *Jennings* commented that "U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2)," that reference to "aliens seeking admission" did not add a new "seeking admission" criterion for Section 1225. *Id.* at 289. Rather, the reference reflected the Court's prior explanation that aliens who fall within Section 1225(b)(1) and (b)(2) are, as a matter of law, "treated as" "applicants for admission." *Id.* at 287.

III. Section 1225(b) applies to all applicants for admission, not just arriving aliens or those who unlawfully entered the country recently.

The *Jennings* Court’s discussion of Section 1225 indicates that “applicants for admission” does not *exclude* those who entered without inspection years ago. Section 1225(b) covers applicants for admissions regardless of when they entered.

First, the *Jennings* Court explained that Section 1225(b)(1) applies to two subcategories of applicants for admission. One subcategory applies to those arriving aliens who have been “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.* Another subcategory applies to certain aliens who are: (1) designated by the Attorney General in her discretion; (2) unlawfully present without being admitted; and (3) recent arrivals. *See id.* Aliens in those subcategories are subject to “expedited removal.” *Id.*

Second, the *Jennings* Court explained that *all* applicants for admission who fall outside Section 1225(b)(1)’s two subcategories are covered by Section 1225(b)(2). The Supreme Court described Section 1225(b)(2) as a “*catchall* provision that applies to *all* applicants for admission not covered by § 1225(b)(1).” *Id.* (emphases added).

Thus, an alien who meets the general definition of applicant for admission (such as an individual who is unlawfully present and has not been admitted)—but does not fall within the two Section 1225(b)(1) subcategories described above—is still an “applicant for admission” who instead falls under the “catchall” provision of Section 1225(b)(2).

IV. In Section 1225, Congress did not grant applicants for admission a right to a bond hearing.

The *Jennings* Court recognized that Section 1225 does not provide for a bond hearing. Aliens covered by Section 1225(b)(2) generally “shall be detained” during their removal

proceedings, with narrow exceptions. *Jennings*, 583 U.S. at 287-88 (quoting 8 U.S.C. § 1225(b)(2)(A)). That is, under Section 1225(b)(2)(A), all other applicants for admission whom an immigration officer determines are “not clearly and beyond a doubt entitled to be admitted” shall be detained for removal proceedings.

V. Section 1226, in contrast, provides for detention and bond hearings for other categories of aliens subject to removal.

The *Jennings* Court recognized that a different statutory provision—Section 1226—governs the detention of other aliens, including those who had been “admitted.” Indeed, the Supreme Court observed that Section 1226 extended to “aliens who were inadmissible at the time of entry or *who have been convicted of certain criminal offenses since admission.*” *Id.* at 288 (emphasis added). Thus, Section 1226 extends to those who were admitted.

The Court did *not* suggest that Section 1226 governs the detention of aliens who are covered by Section 1225(b)(2). Rather, the Court appeared to recognize that these two provisions—Section 1225(b)(2) and Section 1226—authorize detention for *different* sets of individuals:

U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).

Jennings, 583 U.S. at 289. In distinguishing these detention authorities, the Court did *not* suggest that aliens covered by Section 1225 should instead be governed by Section 1226.

ARGUMENT

I. **Petitioner's detention under Section 1225(b)(2)(A) does not violate the INA.**

Under *Jennings* and the statutory text, Section 1225 applies to Petitioner because he entered without inspection and remained unlawfully present in the United States. Petitioner's arguments to the contrary are unavailing.

A. **Petitioner is an "applicant for admission" under Section 1225, so his detention under Section 1225(b)(2)(A) is proper.**

"When interpreting the language of a statute, the starting point is always the language of the statute itself." *McGraw v. Barnhart*, 450 F.3d 493, 498 (10th Cir. 2006) (citation omitted). Under Section 1225's text, Petitioner is an "applicant for admission" and, therefore, subject to mandatory detention.

Petitioner is an applicant for admission. Section 1225(a)(1) provides, "[a]n alien present in the United States who has not been admitted or who arrives in the United States ... shall be deemed for purposes of this chapter an applicant for admission." Applying that plain language here, Petitioner "is an applicant for admission.... [He] is an alien. He is present in the United States. He has not been admitted...." *Mejia Olalde v. Noem*, No. 25-cv-168, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025) (quotation marks and citation omitted); *see also* Ex. 1, ¶6. He has not made a "lawful entry ... after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). He, therefore, is an "applicant for admission."

Because he is an "applicant for admission," he is properly detained under Section 1225(b)(2)(A) and is not eligible for a bond hearing or release. Section 1225(b)(2)(A) provides that "an alien who is an applicant for admission ... shall be detained." As a result, "under the plain language of Section 1225(b)(2), Petitioner is subject to mandatory detention

pending the resolution of his removal proceedings.” *Chen v. Almodovar*, No. 25-cv-8350-MKV, 2025 WL 3484855, at *4 (S.D.N.Y. Dec. 4, 2025).

Accordingly, Petitioner’s detention without bond under Section 1225(b)(2) is proper.

B. Petitioner’s arguments for why he is not properly detained under Section 1225(b)(2)(A) are unpersuasive.

Petitioner makes several arguments as to why Section 1225(b)(2)(A) does not apply to him. *See* ECF No. 2, ¶¶20-39. The Court should reject these arguments.

1. “Seeking admission” is a term that accurately describes Petitioner.

Petitioner argues that Section 1225 does not apply to him because he is not “seeking admission” at a port of entry. *See* ECF No. 2, ¶¶38-39. That argument is incorrect: “there is no support in statutory text, precedent, or legislative history for the conclusion that Section 1225(b)(2) does not apply to aliens who are ‘already here’ after having illegally entered the country.” *Chen*, 2025 WL 3484855, at *5.

First, Section 1225 applies beyond those at a port of entry and encompasses those, like Petitioner, present in but not admitted into the United States. As *Jennings* stated, “[u]nder ... 8 U.S.C. § 1225, an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for admission.’” 583 U.S. at 287. In other words, Section 1225(a)(1) applies to “applicants for admission,” including *both* an “arriving alien” and an individual who is *present* in the United States but has not been “admitted” through a lawful entry at a port of entry. 8 U.S.C. § 1225(a)(1). “Therefore, the term ‘applicant[s] for admission’ does not just cover arriving aliens; it also covers aliens who, like [Petitioner], are present in the United States—for decades even—without admission.” *Calderon Lopez v. Lyons*, No. 25-cv-226-H, 2026 WL 44683, at *4 (N.D. Tex. Jan. 7, 2026).

Second, other parts of Section 1225 confirm that *anyone* falling within the category of “applicant for admission” is deemed, as a matter of law, to be seeking admission. For example, Section 1225(a)(3) requires inspection of “[a]ll aliens ... who are applicants for admission or *otherwise* seeking admission.” 8 U.S.C. § 1225(a)(3). That text “reinforces the reading that all ‘applicants for admission’ are ‘seeking admission’ because it recognizes that there are ‘other[]’ ways to seek admission besides being an ‘applicant[] for admission.’” *Mejia Olalde*, 2025 WL 3131942, at *3 (alterations in original). Other provisions of Section 1225 further support the conclusion that an applicant for admission, like Petitioner, is by definition seeking admission. *See* 8 U.S.C. § 1225(a)(5) (“An applicant for admission may be required to state ... the purposes and intentions of the applicant *in seeking admission* ...” (emphasis added)); *id.* § 1225(b)(1)(A)(i) (applying to an “alien ... who is arriving in the United States *or* is described in clause (iii)” (emphasis added)); *id.* § 1225(b)(1)(A)(iii)(II) (referencing applicants for admission who have “not been admitted or paroled” and have not “affirmatively shown, to the satisfaction of an immigration officer, that [they] ha[ve] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph”).

2. Past practice does not establish Section 1225’s inapplicability.

Citing a 1997 Federal Register entry, Petitioner contends that the Executive’s past practice of interpreting the INA shows he is not subject to Section 1225. *See* ECF No. 2, ¶¶26-27. Past practice, though, does not show that Petitioner is not subject to Section 1225.

The 1997 Federal Register entry cited by Petitioner states that “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred

to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). This entry does not show that Petitioner is not subject to Section 1225 for at least three reasons.

First, the entry appears to acknowledge that aliens who are present without having been admitted are “applicants for admission.” Thus, the cited language implicitly acknowledges that applicants for admission are not eligible for bond hearings under the statute. Instead, it regarded them as eligible for bond hearings as a matter of administrative discretion, not as a matter of statutory interpretation.

Second, the Federal Register entry does not change the plain language of the statute. The weight given to agency interpretations must “depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade.” *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 388 (2024) (citation omitted). Here, the agency provided little analysis to support the reasoning for its statement about granting bond hearings to applicants for admission. *See* 62 Fed. Reg. at 10323. A prior practice by the agency of making such individuals eligible for bond hearings therefore carries little weight in interpreting the text of Section 1225. And ultimately, “[t]he historic interpretation does not control here because it is contrary to the plain text.” *Cutiopala v. Noem*, No. 25-cv-00211-MAL, 2026 WL 113567, at *5 (E.D. Mo. Jan. 15, 2026).

Third, to the extent the 1997 Federal Register entry could be read to support Petitioner’s view of Section 1225, it conflicts with the corresponding legislative history.

In 1996, Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA). Before the IIRIRA, Section 1225 provided for the inspection of aliens only when they were arriving at a port of entry. *See* 8 U.S.C. § 1225(a) (1990) (discussing inspection of aliens “arriving at ports of the United States”). It required that such aliens be placed in exclusion proceedings. *See id.* § 1225(c). By contrast, aliens who “entered without inspection” were placed in deportation proceedings, where they could be eligible for bond, *see id.* § 1252(a)(1). In other words, the pre-IIRIRA regime “resulted in an anomaly” where aliens who entered without inspection received greater procedural rights than aliens who presented themselves at a port of entry. *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010).

With the IIRIRA’s 1996 enactment, the “IIRIRA did away with this anomaly.” *Martinez v. Villegas*, No. 1:25-cv-256-H, 2026 WL 114418, at *6 (N.D. Tex. Jan. 15, 2026). Congress addressed this anomaly by replacing certain aspects of the “entry doctrine,” under which “illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection.” H.R. Rep. No. 104-469, pt. 1, at 225 (1996). The House Judiciary Committee Report related to IIRIRA explained that, before the IIRIRA, “aliens who ha[d] entered without inspection [were] deportable under section [1251(a)(1)(B)]” but that, after the IIRIRA, “such aliens will not be considered to have been admitted.” *Id.* at 226. Instead, through passage of the IIRIRA, “the pivotal factor in determining an alien’s status [was to be] whether or not he has been *lawfully* admitted.” *Id.* at 225 (emphasis added). Thus, the legislative history confirms Respondents’ interpretation of Section 1225.

3. Many courts have issued well-reasoned decisions affirming Respondents' interpretation of Section 1225.

Petitioner finally contends that federal courts have “uniformly rejected” Respondents’ interpretation of Section 1225. ECF No. 2, ¶¶31-34. That is simply incorrect. As an initial matter, each of the decisions cited by Petitioner is non-precedential. In any event, numerous courts have, in fact, affirmed Respondents’ interpretation of Section 1225, often articulating their reasoning in careful detail. *See, e.g., Eustaquio Ov. Berg*, No. 26-cv-153-PAM-DTS, 2026 WL 294923, at *2 (D. Minn. Feb. 4, 2026); *Singh v. Chestnut*, No. 26-cv-0332-WBS-CSK, 2026 WL 280210, at *1 (E.D. Cal. Feb. 3, 2026); *Alvacora, v. Olson*, No. 26-cv-00675-DMT-SGE, 2026 WL 220417, at *2-3 (D. Minn. Jan. 28, 2026); *Ramirez v. Holt*, No. 2:25-cv-00156-SCM, 2026 WL 226964, at *1-7 (E.D. Ky. Jan. 28, 2026); *Weng v. Genalo*, No. 25-cv-09595-JHR, 2026 WL 194248, at *3-6 (S.D.N.Y. Jan. 25, 2026); *Martinez*, 2026 WL 114418, at *2-8; *Cutiopala*, 2026 WL 113567, at *2-5; *Chen v. Almodovar*, No. 25-cv-9670-JPC, 2026 WL 100761, at *7-13 (S.D.N.Y. Jan. 14, 2026); *Gutierrez Sosa v. Holt*, No. 25-cv-1257-PRW, 2026 WL 36344, at *3-5 (W.D. Okla. Jan. 6, 2026); *Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932, at *1-4 (W.D.N.Y. Dec. 4, 2025); *Chen*, 2025 WL 3484855, at *4; *Topal v. Bondi*, No. 25-cv-01612, 2025 WL 3486894, at *2 (W.D. La. Dec. 3, 2025); *Cabanas v. Bondi*, 4:25-cv-04830, 2025 WL 3171331, at *3-6 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde*, 2025 WL 3131942, at *3; *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *6 (E.D. Wis. Oct. 30, 2025); *Vargas Lopez v. Trump*, No. 25-cv-526, 2025 WL 2780351, at *9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-cv-02325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025).

As those decisions show, Respondents’ position is well supported by the statutory text.

II. Petitioner's detention under Section 1225(b)(2)(A) does not violate due process.

Petitioner also alleges that his detention without a bond hearing violates his procedural due-process rights under the Fifth Amendment. *See* ECF No. 2 ¶¶54-57. This argument fails.

As explained above, Petitioner is properly subject to detention under Section 1225, and he has received the due process that is set forth by statute. As this Court has explained, “procedural due process does not afford inadmissible arriving aliens subject to prolonged detention [under Section 1225] a right to release or a bond hearing prior to the conclusion of removal proceedings.” *Doe v. Bondi*, No. 25-cv-02712-DDD-SBP, 2025 WL 3516292, at *6 (D. Colo. Nov. 4, 2025) (Domenico, J.). That ruling applies with equal force to other aliens who are also applicants for admission detained under Section 1225. Petitioner has thus failed to show a due-process violation.

CONCLUSION

The Court should, therefore, deny the Application (ECF No. 2).

Dated: February 6, 2026.

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CERTIFICATE OF COMPLIANCE

Counsel for Respondents hereby certifies that the foregoing pleading complies with the type-volume limitation set forth in Judge Domenico's Practice Standard III(A)(2).

CERTIFICATE OF SERVICE

I hereby certify that, on February 6, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Nicholas A. Deuschle

Nicholas A. Deuschle

United States Attorney's Office