

ERIC GRANT
United States Attorney
ELLIOT WONG
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900

Attorneys for Respondents
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VADO C.G.,

Petitioner,

v.

WARDEN OF THE GOLDEN STATE
ANNEX, et al.,¹

Respondents.

CASE NO. 1:25-cv-1858-TLN-CSK

OPPOSITION TO MOTION FOR TEMPORARY
RESTRAINING ORDER AND RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner has been constitutionally detained in connection with his removal proceedings since November 26, 2025. Based on his status as an applicant for admission, he is ineligible for release. *See* 8 U.S.C. § 1225(b)(2)(A). Petitioner's release on his own recognizance last year did not change his status as an applicant for admission subject to detention nor did it create rights to a detention hearing or continued release absent changed circumstances. Because mandatory detention continues to serve legitimate congressionally mandated goals with a definite end in sight, it does not violate the Due Process Clause of the Fifth Amendment or the Administrative Procedures Act, and his petition should be

¹ Respondent moves to strike and dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief may only name the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir. 1996); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024) (holding, among other things, that the warden of the private detention facility at which a non-citizen alien was held was the proper § 2241 respondent). Here, Petitioner's custodian was the facility administrator at the Golden State Annex ICE Detention Center.

1 dismissed.

2 **I. BACKGROUND**

3 Petitioner is a native and citizen of Nicaragua. *See* Declaration of Armando Meneses (“Meneses
4 Decl.”), ¶ 5.

5 In removal proceedings, an immigration judge found Petitioner removable as an alien present in
6 the United States without admission or parole pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). *See* Meneses
7 Decl., ¶ 5. On October 9, 2019, an immigration judge granted Petitioner withholding of removal, but the
8 order did not explicitly list an underlying removal order to another country. *See* Meneses Decl., ¶ 5.

9 Following the grant of withholding of removal, Petitioner was arrested and convicted of several
10 criminal offenses between 2019 and 2024. *See* Meneses Decl., ¶¶ 6-8.

11 On October 14, 2024, ICE cancelled Petitioner’s immigration bond. *See* Meneses Decl., ¶ 9.
12 ICE then conducted an enforcement operation and arrested Petitioner on November 26, 2025. *See*
13 Meneses Decl., ¶ 10.

14 On December 2, 2025, Petitioner was served a third country removal form. *See* Meneses Decl., ¶
15 11. Petitioner refused to sign. *See* Meneses Decl., ¶ 11. Petitioner indicated that he did not have a fear
16 of return to Mexico, but he refused to go to Mexico. *See* Meneses Decl., ¶ 11. Petitioner was referred to
17 U.S. Citizenship and Immigration Services (“USCIS”) for his fear claim to Mexico. *See* Meneses Decl.,
18 ¶ 11. To date, Petitioner’s fear interview request has been submitted to USCIS but the interview
19 scheduling remains pending. *See* Meneses Decl., ¶ 11.

20 On December 10, 2025, an immigration judge amended Petitioner’s prior 2019 order granting
21 withholding of removal to state that Petitioner was ordered removed to Nicaragua and his application for
22 withholding of removal remains granted. *See* Meneses Decl., ¶ 12.

23 Petitioner is currently detained at the Golden State Annex. (ECF 1, ¶ 1.)

24 Petitioner filed his habeas petition on December 15, 2025. (ECF 1.) He claims that his re-
25 detention without an individualized assessment of flight risk or danger violates the Due Process Clause
26 of the Fifth Amendment. (ECF 1, ¶¶ 46-49.) He asks this Court to order an individualized bond hearing
27 before an immigration judge in which the government bears the burden of proving, by clear and
28 convincing evidence, that he is a flight risk or danger to the community. (ECF 1, p. 17.) The next day,

the Court ordered Respondents to file a response to the petition. (ECF 5.)

II. RELEVANT STATUTES

A. Detention under 8 U.S.C. § 1225

Section 1225 applies to “applicants for admission,” who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens generally are subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is “found not to have such a fear,” he is detained until removed. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “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); *see Pena v. Hyde*, 2025 WL 2108913, at *1 (D. Mass. July 28, 2025) (“[§ 1225] authorizes the detention of any alien who 1) is ‘an applicant for admission’ to the country and 2) is ‘not clearly and beyond doubt entitled to be admitted.’” (citing 8 U.S.C. § 1225(b)(2)(A)); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). Still, the Department of Homeland Security (“DHS”) has the sole discretionary authority to temporarily release on parole “any alien

1 applying for admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or
2 significant public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

3 **B. Detention under 8 U.S.C. § 1226**

4 For many years, judges treated aliens who entered the United States without admission and were
5 later detained away from the border as being subject to discretionary detention under § 1226(a) rather
6 than mandatory detention under § 1225(b)(2). However, on July 8, 2025, the Department of Homeland
7 Security (“DHS”) “revisited its legal position on detention and release authorities” and issued interim
8 guidance that brought the Executive’s practices in line with the statute’s plain text. DHS concluded that
9 all aliens who enter the country without being admitted or who otherwise arrive in the United States
10 without proper documents are subject to detention under INA § 235(b) [§ 1225(b)] and may not be
11 released from ICE custody except by INA § 212(d)(5) parole. On September 5, 2025, the Bureau of
12 Immigration Appeals (“BIA”) adopted this interpretation. *Matter of Yajure Hurtado*, 29 I. & N. Dec.
13 216, 222-223 (BIA 2025).

14 Section 1226 provides for arrest and detention of an alien “pending a decision on whether the
15 alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), the government
16 may detain an alien during his removal proceedings, release him on bond, or release him on conditional
17 parole. By regulation, immigration officers can release aliens if the alien demonstrates that he “would
18 not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R.
19 § 236.1(c)(8). An alien also can request a custody redetermination (i.e., a bond hearing) by an
20 immigration judge (“IJ”) at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8
21 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

22 At a custody redetermination, the IJ may continue detention or release the alien on bond or
23 conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad discretion in deciding
24 whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine
25 factors for IJs to consider).

III. ARGUMENT

A. The Supreme Court has upheld the constitutionality of mandatory detention for certain aliens while their removal proceedings are pending.

Petitioner is currently detained under 8 U.S.C. § 1225(b)(1) while his removal proceedings are pending.² This is not a case where detention is indefinite. Rather, detention under § 1225(b)(1), like detention under § 1226(c), “has a definite termination point: the conclusion of removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 304 (2018) (internal quotation marks and citation omitted).

The Supreme Court has long held that “the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings.” *Demore v. Kim*, 538 U.S. 510, 526 (2003) (describing this conclusion as the Court’s “longstanding view”). In *Demore*, the Court upheld the constitutionality of a similar mandatory detention provision—8 U.S.C. § 1226(c), which mandates the detention during removal proceedings of aliens who have been convicted of an aggravated felony. *Id.* at 513. In reaching this holding, the Court explained that “[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.” *Id.* at 521. The Court noted that, for over a century, it has “recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process” because “deportation proceedings ‘would be vain if those accused could not be held in custody pending the inquiry into their true character.’” *Id.* at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)).

Based on this established principle, the Court in *Demore* reaffirmed that immigration detention can be constitutional even in the absence of any showing that an individual detainee posed a flight risk or a danger to the community. *See id.* at 523-27 (discussing *Carlson v. Landon*, 342 U.S. 524 (1952), and concluding that detention was constitutional “even without any finding of flight risk” or “individualized finding of likely future dangerousness” (quotation marks omitted)). In short, in *Demore* “the Supreme Court recognized [that] there is little question that the civil detention of aliens during

² Because the immigration judge’s 2019 order granting withholding did not contain an explicit order of removal, it did not constitute a final order of removal. *See Matter of I-S- & C-S-*, 24 I&N Dec. 432 432 (BIA 2008) (“[A]n Immigration Judge issues a decision granting a [non-citizen’s] application for withholding of removal . . . the decision must include an explicit order of removal.”). Accordingly, Petitioner’s removal order will not become administratively final until the 30-day appeal window has lapsed, following the immigration judge’s issuance of the amended removal order, December 10, 2025.

1 removal proceedings can serve a legitimate government purpose, which is ‘preventing deportable ...
 2 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if
 3 ordered removed, the aliens will be successfully removed.’” *Prieto-Romero v. Clark*, 534 F.3d 1053,
 4 1065 (9th Cir. 2008) (quoting *Demore*, 538 U.S. at 528).

5 Based on the reasoning of *Demore*, mandatory detention under 8 U.S.C. § 1225(b)(1) is facially
 6 constitutional for the same reasons as is mandatory detention under § 1226(c). In sum, Petitioner’s
 7 detention is proper under § 1225(b)(2)(A), because he is an applicant for admission who is not “clearly
 8 and beyond doubt” entitled to admission. *See Pena*, 2025 WL 2108913, at *1 (D. Mass. July 28, 2025)
 9 (“[§ 1225] authorizes the detention of any alien who 1) is ‘an applicant for admission’ to the country and
 10 2) is ‘not clearly and beyond doubt entitled to be admitted.’” (citing 8 U.S.C. § 1225(b)(2)(A)).³

11 **B. Because he is an applicant for admission under § 1225, Petitioner is subject to**
 12 **mandatory detention.**

13 Petitioner’s claims lack merit because he was an applicant for admission under 8 U.S.C. §§
 14 1225(a) and (b)(2) and his detention is mandatory. The government recognizes that this Court and
 15 others have held against it on this issue, but believes the analysis set forth below and in *Alonzo v. Noem*,
 16 No. 1:25-cv-01519-WBS-SCR, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025), as well as *Doe v.*
 17 *Andrews*, 1:25-cv-00333-JLT-HBK, 2025 WL 3280777 (E.D. Cal. Nov. 25, 2025) (Findings and Recs)
 18 is the correct one.

19 An “applicant for admission” is “[a]n alien present in the United States who has not been
 20 admitted or who arrives in the United States . . . whether or not at a designated port of arrival.” 8 U.S.C.
 21 § 1225(a)(1). The statute expressly treats a person in *either* category as an “applicant for admission.”
 22 *Id.*; *see also Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012) (“Congress has defied the
 23 concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are
 24 expressly seeking permission to enter, but also those who are present in this country without having
 25 formally requested or received such permission”). Applicants for admission must be inspected by

26
 27 ³ Respondents acknowledge that multiple district courts have disagreed with their interpretation
 28 of § 1225, as relevant here, *see Romero v. Hyde*, 2025 WL 2403827 (D. Mass. August 19, 2025)
 (collecting cases), including this Court. *See Labrador-Prato v. Noem*, 1:25-cv-01598-DC-SCR, 2025
 WL 3458802 (E.D. Cal. Dec. 2, 2025), and *Selis Tinoco v. Noem*, 1:25-cv-01762-DC-JDP, 2025 WL
 3567862 (E.D. Cal. Dec. 14, 2025).

1 immigration officers to determine whether they can be admitted to the United States under immigration
2 laws. 8 U.S.C. § 1225(a)(3); *Jennings*, 583 U.S. at 287. Petitioner undisputedly meets the statutory
3 definition of an applicant for admission under § 1225(s) because he was “present in the United States”
4 and had “not been admitted.”

5 8 U.S.C. § 1225(b) governs the detention of “applicants for admission” during their removal
6 proceedings and classifies them into three categories. The first two categories consist of: (1) arriving
7 aliens who are inadmissible because they lack proper entry documents or have falsified/misrepresented
8 their entry documents; and (2) those aliens who have not established to the satisfaction of an
9 immigration officer that they have been physically present in the United States for two years or more.
10 Aliens that fall into either of these categories: (a) are subject to expedited removal; and (b) are subject to
11 mandatory detention during the expedited removal process. *See* 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV).

12 The third category of applicants for admission consists of those aliens who are “seeking
13 admission” and who an immigration officer has determined are “not clearly and beyond a doubt entitled
14 to be admitted.” *See* 8 U.S.C. § 1225(b)(2)(A). Aliens who fall in this third category are eligible for
15 standard removal proceedings, but are nevertheless subject to mandatory detention during those
16 proceedings. *Id.*; *Jennings*, 583 U.S. at 299 (aliens subject to §§ 1225(b)(1) and (b)(2) are both subject
17 to mandatory detention for the duration of removal proceedings); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68
18 (BIA 2025) (“for aliens arriving in and seeking admission into the United States who are placed directly
19 in full removal proceedings, § 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention
20 ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

21 8 U.S.C. § 1125(b)(2)’s use of the term “shall” makes clear that detention is mandatory. *See*
22 *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). The statute makes no
23 exception for the duration of the alien’s presence in the country or where in the country he is located.
24 Instead, the statute’s plain text mandates that DHS detain all “applicants for admission” who do not fall
25 within one of its exceptions.

26 Here, Petitioner was “seeking admission” and an immigration officer had not determined he was
27 “clearly and beyond a doubt entitled to be admitted.” Petitioner is thus subject to detention during his
28 regular removal proceedings. *See* 8 U.S.C. § 1225(b)(2)(A). Indeed, the unambiguous language of §

1 1225(b)(2) required DHS to detain Petitioner, who was present in the United States without admission.
2 *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020)
3 (“Our analysis begins and ends with the text.”). Any contrary reading would disregard the clear text and
4 subvert Congress’s manifest purposes in adopting § 1225(b)(2)(A). Accordingly, Petitioner’s habeas
5 request should be denied.

6 **IV. CONCLUSION**

7 This Court should deny the petition because Petitioner’s detention under § 1225(b)(2)(A) is
8 constitutionally permitted.

9 Dated: December 19, 2025

Respectfully submitted,

10 ERIC GRANT
11 United States Attorney

12 /s/ ELLIOT WONG
13 ELLIOT WONG
14 Assistant United States Attorney