

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ALEXANDER BARROS MILLAN,	)	CASE NO.: 4:25CV2779
	)	
Petitioner,	)	JUDGE CHARLES ESQUE FLEMING
	)	
v.	)	MAGISTRATE JUDGE REUBEN J.
	)	SHEPERD
ED VOORHIES, et al.,	)	
	)	<u>THIRD SUPPLEMENTAL RESPONSE</u>
Respondents.	)	<u>TO PETITION FOR WRIT OF HABEAS</u>
	)	<u>CORPUS</u>
	)	

Respondent Kevin Raycraft, Acting Director of the Detroit Field Office, U.S. Immigration and Customs Enforcement hereby provides a third supplemental response pursuant to the Court's non-document Order of January 15, 2026.

Petitioner is a citizen Venezuela. Pet ¶ 19. On September 22, 2023, Petitioner presented himself to immigration authorities at El Paso, Texas. Ex. A, PageID # 46. At that time, he was paroled into the United States for two years pending removal proceedings under INA §240 (8 U.S.C. §1229a). *Id.* On April 4, 2025, Petitioner was notified that his parole was terminated. Ex. F, PageID # 80.

On July 15, 2025, Petitioner was encountered and arrested by Homeland Security Investigations agents. (Ex. G Form I-213, attached hereto.) On the same day he was processed as a custody redetermination. (*Id.*) Petitioner remains in removal proceedings and is currently being detained at the Northeast Ohio Corrections Center.

I. PETITIONER IS PROPERLY DETAINED UNDER 8 U.S.C. § 1225

A. **Statutory Framework**

Section 1225(a) codifies Congress's decision to make lawful "admission," rather than physical entry, the touchstone. That provision states that an alien "present in the United States who has not been admitted or who arrives in the United States" "shall be deemed ... an applicant for admission":

An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

8 U.S.C. § 1225(a)(1). "All aliens ... who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States" are required to "be inspected by [an] immigration officer[]." *Id.* § 1225(a)(3).

Section 1225(b) divides removal proceedings into two tracks—expedited removal and non-expedited "Section 240" proceedings—and mandates that applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-(2). Following his inspection at the Port of Entry, Petitioner was put in removal proceedings and provided a Notice to Appear (Ex. B, PageID #48-51.)

Section 1225(b)(1) provides for so-called "expedited removal proceedings," *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which may be applied to a subset of aliens—those who (1) are "arriving in the United States," or (2) have "not been admitted or paroled into the United States" and have "not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(i)-(iii).

Section 1225(b)(2) is a “catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)].” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It requires that those aliens be detained pending Section 240 removal proceedings:

Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added). *See* 8 C.F.R. § 253.3(b)(1)(ii) (mirroring Section 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that Section 1225(b)(2) “mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin”).

While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to exercise its parole authority to temporarily release an applicant for admission, but “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Parole, however, “shall not be regarded as admission of the alien.” *Id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that “the purposes of such parole ... been served,” the “alien shall ... be returned to the custody from which he was paroled” and be “dealt with in the same manner as that of any other applicant for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A).

Section 1226 creates a separate authority addressing the arrest, detention, and release of aliens generally (versus applicants for admission specifically). *See* 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for example, lawfully enter the country but overstay or otherwise violate the terms of their visas or are later determined to have been improperly admitted. The statute provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from

the United States.” *Id.* § 1226(a). Detention under this provision is generally discretionary: The Attorney General “may” either “continue to detain the arrested alien” or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).¹

B. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of Section 1225(b)(2), DHS is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) (“Our analysis begins and ends with the text.”).

Section 1225(a) defines “applicant for admission” to encompass an alien who either “arrives in the United States” or who is “present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). And “admission” under the INA means not physical entry, but lawful entry after inspection by immigration authorities. 8 U.S.C. § 1101(a)(13)(A); *Mejia Olalde v. Noem*, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien’s presence in the United States or the alien’s distance from the border.

In turn, Section 1225(b)(2) provides that “an alien who is an applicant for admission” “shall be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statute’s use of the term “shall” makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss*

¹ Conditional parole under Section 1226(a) is broader than parole under Section 1182(d)(5)(A).

Bershad Hynes & Lerach, 523 U.S. 26, 35 (1998), and the statute makes no exception for the duration of the alien's presence in the country or where in the country he is located. Therefore, the statute's plain text mandates that DHS detain all "applicants for admission" who do not fall within one of its exceptions.

Petitioner falls squarely within the statutory definition. He was "present in the United States," and he has "not been admitted." 8 U.S.C. § 1225(a). Parole is not admission. 8 U.S.C. § 1182(d)(5)(A); *Jennings*, 583 U.S. at 288. Moreover, Petitioner cannot—and did not—establish that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Therefore, Petitioner "shall be detained for a proceeding under [8 U.S.C. § 1229a]."

II. ADDITIONAL INFORMATION REQUESTED BY THE COURT

During the hearing on January 14, 2026, the Court requested the Respondents provide the following information:

(A) Additional information regarding Petitioner's arrest, including I-213 Form detailing the Petitioner's arrest on July 15, 2025

The Petitioner did not challenge his arrest in the Petition. Regardless of whether the encounter was consensual or there was reasonable suspicion to stop Petitioner to question him about his immigration status, "an unlawful arrest, by itself, doesn't warrant release." *Buriev v. Warden*, 2025 U.S. Dist. LEXIS 190160, at *7 (S.D. Fla. Sept. 26, 2025) (citation omitted). "In any event, 'the body or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that the unlawful arrest, search, or interrogation occurred.'" *Alonso-Portillo v. Bondi*, 2025 WL 2483393, 2025 U.S. Dist. LEXIS 167908, at *29 (S.D. Ohio Aug. 28, 2025) (quoting *I.N.S. v. Lopez-Mendoza*, 468 U.S. 1032, 1039 (1984)). Thus, even if Petitioner had challenged his arrest, which he did not, release from custody is not the remedy available to him. He can assert Fourth Amendment

arguments in his removal proceeding. See, e.g., *Rivera v. U.S. Att'y Gen.*, 2022 U.S. App. LEXIS 2359, at *3-4 (3rd Cir. Jan. 26, 2022) (considering Fourth Amendment arguments asserted during removal proceedings and later appealed to the circuit court).

Form I-213 is attached hereto as Exhibit G.

(B) Any additional information regarding the revocation of Petitioner's parole

Parole determinations are solely within the discretion of the DHS Secretary and is not regarded as admission of the alien. *See, supra*. P. 3; 8 U.S.C. § 1182(d)(5)(A); *Jennings*, 583 U.S. at 288. The details regarding the termination of Petitioner's parole are contained in Ex. F, PageID #80. Respondent does not have any additional information to provide.

CONCLUSION

For all of the reasons stated above and in Respondent's prior Responses, this Court should deny Petitioner's Petition for Writ of Habeas Corpus and dismiss this case with prejudice.

Respectfully submitted,

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