

Magistrate Judge Brian A. Tsuchida

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

ALEXANDER MOISES LUCENA-OJEDA,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

Case No. 2:26-cv-00085-BAT

**FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM**

Noted for Consideration:
January 28, 2026.

Pursuant to this Court's Order (Dkt. 2), Federal Respondents submit the following factual background as contained in the records of Petitioner Alexander Moises Lucena-Ojeda's immigration case, as well as the relevant detention authority.

I. LEGAL STANDARD

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 day.” *Thuraissigiam*, 591 U.S. at 125 n. 20. Title 28 U.S.C. § 2241 provides district courts with
2 jurisdiction to hear federal habeas petitions.

3 To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or
4 her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C.
5 § 2241(c)(3); *Morris v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

6 II. DETENTION AUTHORITY

7 A. 8 U.S.C. § 1225(b)

8 8 U.S.C. § 1225 applies to “applicants for admission” to the United States, who are defined
9 as “alien[s] present in the United States who [have] not been admitted” or noncitizens “who
10 arrive[] in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1).
11 Applicants for admission under 8 U.S.C. § 1225 fall into one of two categories, both of which are
12 subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section
13 1225(b)(1) covers noncitizens initially determined to be inadmissible due to fraud,
14 misrepresentation, or lack of valid documentation, and certain other aliens designated by the
15 Attorney General in her discretion. Separately, section 1225(b)(2) serves as a catchall provision
16 that applies to all applicants for admission not covered by Section 1225(b)(1) (with specific
17 exceptions not relevant here). *See Jennings*, 583 U.S. at 287. Petitioner does not dispute that he
18 is a noncitizen present in the United States who has not been admitted. Thus, Petitioner is an
19 “applicant for admission” and subject to mandatory detention under Section 1225(b). *See Matter*
20 *of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

21 B. Interim Parole under 8 U.S.C. § 1182(d)(5)(A)

22 While all noncitizens detained pursuant to 8 U.S.C. § 1225(b) are subject to mandatory
23 detention, they may be subject to parole by the Attorney General or Department of Homeland
24 Security (DHS), and that is not an issue that the Immigration Judge has authority to consider. *See*

1 INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. 212.5(a) (2025) (designating who may
2 exercise authority to grant parole); *see also Jennings*, 583 U.S. at 300 (noting that the Attorney
3 General may grant aliens detained under section 235(b)(1) temporary parole into the United States
4 “for urgent humanitarian reasons or significant public benefit” (quoting INA § 212(d)(5)(A), 8
5 U.S.C. § 1182(d)(5)(A)). This discretionary parole is statutorily required to be “temporary parole”
6 under 8 U.S.C. § 1182(d)(5)(A), and the statute does not grant the Attorney General or DHS the
7 discretion to grant indefinite parole to those subject to mandatory detention. Federal regulations
8 govern the expiration of parole and state that where the parole has expired, “no written notice
9 shall be required.” 8 C.F.R. § 212.5(e)(1). An alien who has been paroled into the United States
10 is not considered to have been “admitted.” *See Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085
11 (9th Cir. 2025).

12 **C. Revocation of Discretionary Release from Detention**

13 “Any officer authorized to issue a warrant of arrest may, in the officer’s discretion, release
14 an alien . . . provided that the alien must demonstrate to the satisfaction of the officer that such
15 release would not pose a danger to property or persons, and that the alien is likely to appear for
16 any future proceeding.” 8 C.F.R. § 1236.1(c)(8).

17 Section 236.1(c)(9) provides for the revocation of such release: “When an alien who,
18 having been arrested and taken into custody, has been released, such release may be revoked at
19 any time in the discretion of the district director, acting district director, deputy district director,
20 assistant district director for investigations, assistant district director for detention and
21 deportation, or officer in charge (except foreign), in which event the alien may be taken into
22 physical custody and detained.”

III. FACTUAL BACKGROUND

Petitioner Alexander Moises Lucena-Ojeda is a native and citizen of Venezuela who unlawfully entered the United States most recently without inspection on or about July 26, 2023, and was arrested by non-federal police officers from the Department of Public Safety (“DPS”) in Maverick County, Texas for criminal trespass. Petitioner was booked into the Dolph Briscoe Unit jail in Dilley, Texas pending adjudication of the aforementioned charge. Declaration of Christopher Hubbard (“Hubbard Decl.”) ¶ 3. Petitioner was later convicted of such charge on October 10, 2023, and sentenced to 34 days in jail. *Id.*

On August 10, 2023, Deportation Officer G. Acosta, who is assigned to the San Antonio Field Office, interviewed Petitioner at the Dolph Briscoe Unit jail in Dilley, Texas. *Id.* ¶ 4. Petitioner claimed he last entered the United States by wading at Eagle Pass, Texas on or about July 26, 2023, and was present in the United States without being paroled or inspected by an U.S. immigration officer. *Id.* Accordingly, Petitioner was determined to be inadmissible under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”) and issued a Notice to Appear (“NTA”) to initiate immigration proceedings. *Id.*; Declaration of Alixandria K. Morris (“Morris Decl.”), Exs. 1-2 (NTA; I-213).

On August 31, 2023, a deportation officer served Petitioner with a Form I-200 (Warrant for Arrest of Alien) while he was detained at the Segovia Jail in Edinburg, Texas. Hubbard Decl. ¶ 5. Petitioner was transferred into ICE custody and released on an order of recognizance (“OREC”). *Id.*; Morris Decl., Exs. 3-4 (OREC; OREC Addendum).

On December 18, 2025, Petitioner reported to ERO as directed. Hubbard Decl. ¶ 6. At that time, his OREC was revoked in the exercise of ICE’s discretion and he was taken back into ICE custody. *Id.* Petitioner was transferred to the NWIPC. *Id.*

1 Petitioner is currently detained at the NWIPC pending immigration court proceedings. *Id.*
2 ¶ 7. Petitioner is represented by counsel in his immigration court proceedings and has filed a Form
3 I-589, which is an application for asylum, withholding of removal, and protection under the
4 Convention Against Torture. *Id.*

5 **IV. CONCLUSION**

6 As an applicant for admission, Petitioner is mandatorily detained pursuant to 8 U.S.C. §
7 1225(b).

8 Dated this 23rd day of January, 2026.

9 Respectfully submitted,

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23 I certify that this memorandum contains 1,091
24 words, in compliance with the Local Civil Rules.