IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

OTABEK MURODOV, *Petitioner*, v. J.L. JAMISON, et al., *Respondents*.	Civil Action No. 2:26-cv-594 (Judge Pappert)

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

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I. INTRODUCTION

Petitioner seeks a writ of habeas corpus and motion for temporary restraining order, challenging the authority of the Secretary of the U.S. Department of Homeland Security (DHS) to detain him under the Immigration and Nationality Act (INA), 8 U.S.C. § 1225(b)(2), after his discretionary parole into the United States was revoked. Petitioner is a noncitizen of the United States and removable as an "arriving alien" under 8 U.S.C. § 1225(a)(1) and 8 C.F.R. § 1.2.

This petition is distinguishable from the vast majority of petitions recently considered by this Court involving "applicants for admission" in the wake of the Board of Immigration Appeals' (BIA) decision in *Matter of Hurtado*, 29 I & N Dec. 216 (BIA 2025), which is not implicated here.[1] *See e.g., Cantu-Cortes v. O'Neill, et al.*, No. 25-cv-6338, 2025 WL 3171639, at *1-2 (E.D. Pa. Nov. 13, 2025) (Kenney, J.); *Anirudh v. McShane, et al.*, No. 25-cv-6458 (E.D. Pa. Dec. 8, 2025) (Bartle, J.); *Juarez Velazquez v. O'Neill, et al.*, No. 25-cv-6191 (E.D. Pa. Dec. 3, 2025) (Henry, J.). Specifically, as an "arriving alien" in removal proceedings, Petitioner is subject to mandatory detention under § 1225(b). *See* 8 C.F.R. 235.3(c)(1). The cases cited above did not involve individuals like Petitioner who were charged as inadmissible "arriving aliens" upon entry to the United States. *But see Vasquez-Rosario v. Noem*, No. 25-cv-7427 (E.D. Pa. Jan. 26, 2026) (Kenney, J.) (rejecting government's argument that petitioner paroled into the country was subject to mandatory detention under § 1225(b) as an "arriving alien").

After arriving at the border, Petitioner was granted discretionary parole into the United States, but his parole has ended. Because Petitioner has returned to the

[1] Similarly, the claims here would not implicate the recent class-certification and partial-summary-judgment rulings issued by the U.S. District Court for the Central District of California. *See Bautista v. Santacruz*, 2025 WL 3289861, *4 (C.D. Cal. Nov. 20, 2025) (addressing arguments that 8 U.S.C. § 1226, not § 1225, should apply to detention claims).

"detention status" that existed at the time of parole, he is properly subject to mandatory detention—*i.e.*, detention without release on bond—during the pendency of his administrative removal proceedings under 8 U.S.C. § 1225(b)(2).

For the reasons set forth below, the Court should dismiss the petition for lack of jurisdiction, or if it reaches the merits, deny it.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a noncitizen of the United States and an applicant for admission into the United States. As the habeas petition acknowledges, Immigration and Customs Enforcement (ICE) recently took Petitioner into custody under 8 U.S.C. § 1225(b) and did not provide a bond hearing. Petitioner is therefore unable to obtain review of his custody by an immigration judge because he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and ineligible for release on bond. *Id.*

At the time the habeas petition was filed, Petitioner was detained within the Eastern District of Pennsylvania.

III. LEGAL STANDARD

A writ of habeas corpus is an "extraordinary remedy." *Shinn v. Ramirez*, 596 U.S. 366, 377 (2022). The petitioner bears the burden of showing his confinement is unlawful. *Hawk v. Olson*, 326 U.S. 271, 279 (1945); *accord Cullen v. Pinholster*, 563 U.S. 170, 181 (2011) (habeas petitioner "carries the burden of proof"); *see also* 28 U.S.C. § 2241.

Judicial review of immigration matters, including of detention issues, is limited. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *Reno v. Am.-Arab Anti-Discrimination Comm.* (*AADC*), 525 U.S. 471, 489–92 (1999); *Miller v. Albright*, 523 U.S. 420, 434 n.11 (1998); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Reno v. Flores*, 507 U.S. 292, 305 (1993); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) ("[T]he power over aliens is of a political character and therefore subject only to narrow judicial review."). The Supreme Court has "underscore[d] the limited scope

of inquiry into immigration legislation," and "has repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo*, 430 U.S. at 792 (internal quotation omitted); *Mathews v. Diaz*, 426 U.S. 67, 79–82 (1976); *Galvan v. Press*, 347 U.S. 522, 531 (1954).

The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure."); *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018) ("Congress has authorized immigration officials to detain some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives immigration officials time to determine an alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

Petitioner must make a strong showing to demonstrate that his continued detention violates the Constitution or laws of the United States. *See United States v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) ("This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power").

IV. ARGUMENT

The Court should deny the petition because: (1) this Court lacks jurisdiction to intervene in Petitioner's removal proceedings, (2) this Court lacks jurisdiction to review DHS's discretionary decision to terminate parole grants; (3) neither a grant of discretionary parole nor its later revocation changes Petitioner's legal status as an inadmissible arriving alien; (4) Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2); and (5) Petitioner's detention does not violate constitutional due process. For the same reasons, the Court should deny Petitioner's motion for preliminary injunctive relief.[2]

A. This Court lacks jurisdiction to intervene in removal proceedings.

Petitioner bears the burden of establishing that this Court has subject matter jurisdiction to address his claims. *See Erie Ins. Exch. v. Erie Indem. Co.*, 68 F.4th 815, 818 (3d Cir. 2023), *cert. denied*, 144 S. Ct. 1007 (2024); *Finley v. United States*, 490 U.S. 545, 547–48 (1989). He cannot meet this burden because his claims are jurisdictionally barred under 8 U.S.C. §§ 1252(g), 1252(b)(9), and 1252(a).

1. 8 U.S.C. § 1252(g) bars Petitioner's claim because he challenges the government's action to commence removal proceedings.

[2] The most significant factor in seeking preliminary injunctive relief is the likelihood of success on the merits. The government's argument is a straightforward statutory analysis in support of its position. Once the Court decides the merits the parties' competing statutory analysis claims, the decision on the petition and the preliminary injunctive relief merge. So the government generally rests on its response here and the matter can be resolved expeditiously, without a hearing, on the briefs.

The government only further notes that, in the event the Court were to grant relief and order a bond hearing, the Court should allow for Petitioner's transfer within the Commonwealth of Pennsylvania (not just the Eastern District of Pennsylvania, as Petitioner's motion requests), which will facilitate Respondents' ability to provide a prompt bond hearing.

Petitioner purports to bring to the determination by the Secretary of Homeland Security to detain him under 8 U.S.C. § 1225(b)(2)(A). *See, e.g.,* Pet. ¶¶ 31–40 (Count I). But Congress has provided that "no court shall have jurisdiction to hear any cause or claim" that arises from "the decision or action" to "commence" removal proceedings or "adjudicate [those] cases." 8 U.S.C. § 1252(g); *AADC*, 525 U.S. at 483; *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 296 (3d Cir. 2020). This Court therefore lacks jurisdiction to adjudicate Petitioner's claims insofar as they arise "from the decision or action by the Attorney General [or Secretary of Homeland Security] to commence proceedings [and] adjudicate cases." 8 U.S.C. § 1252(g); *Tazu*, 975 F.3d at 296; *Valencia-Mejia v. United States*, 2008 WL 4286979, *3 (C.D. Cal. Sept. 15, 2008).

The Secretary's decision to detain is a "specification of the decision to 'commence proceedings' which … § 1252 covers." *AADC*, 525 U.S. at 474, 485 n. 9; *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning [the government's] discretionary decisions to commence removal" of a foreign national, including the "decision to take him into custody *and to detain him during his removal proceedings*" (emphasis added)); *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007); *S.Q.D.C. v. Bondi*, 2025 WL 2617973, *2 (D. Minn. Sept. 9, 2025); *see also Linarez v. Garland*, 2024 WL 4656265, *4 (M.D. Pa. Sept. 24, 2024), *R&R adopted*, 2024 WL 4652824 (M.D. Pa. Nov. 1, 2024) ("[I]n our view, the Attorney General's discretionary decision to place Linarez in expedited removal proceedings is precisely the action this statute refers to."); *Saadulloev v. Garland*, 2024 WL 1076106, *3 (W.D. Pa. Mar. 12, 2024) (recognizing there is no judicial review of the threshold detention decision, which flows from the government's decision to "commence proceedings"); *Khorrami v. Rolince*, 493 F.Supp.2d 1061, 1067–68 (N.D. Ill. 2007) (claim challenging arrest and detention during removal proceedings was barred under § 1252(g)).

This Court lacks jurisdiction to adjudicate Petitioner's claim challenging the Secretary's decision to commence proceedings and hold him under § 1225(b)(2).

2. 8 U.S.C. § 1252(b)(9) deprives this Court of jurisdiction because Petitioner challenges the government's interpretation of a statutory provision arising from actions taken to remove him from the United States.

Even if this claim did not fall within the ambit of § 1252(g), the district court still lacks jurisdiction because Congress has chosen to channel review of immigration proceedings to the courts of appeal. "[N]o court shall have jurisdiction, by habeas corpus … or by any other provision of law," to review any questions of law or fact "arising from any action taken or proceeding brought to remove an alien from the United States"—including interpretation and application of constitutional and statutory provisions—except on a petition for review of a final order of removal to the Court of Appeals. 8 U.S.C. § 1252(b)(9); *see also id*. § 1252(a)(5) (applying the same jurisdictional bar to "judicial review of an order of removal").

Congress intended to insulate threshold detention decisions from district court review. The Supreme Court has made clear that § 1252(b)(9) is "the unmistakable 'zipper' clause," channeling "judicial review of all … decisions and actions leading up to or consequent upon final orders of deportation," including "non-final order[s]," into proceedings before a court of appeals. *AADC*, 525 U.S. at 483, 485; *see also Khalil v. President, United States of America*, --- F.4th ---, 2026 WL 111933, *9 (3d Cir. 2026) ("Section 1252(b)(9) works as a 'zipper' clause, channeling most claims that even relate to removal into [petitions for review]. It ensures that petitioners get only one bite at the apple.") (cleaned up); *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (observing that § 1252(b)(9) is "breathtaking in its scope and vise-like in grip and therefore swallows up virtually all claims that are tied to removal proceedings").

While § 1225(b)(9) may not bar claims challenging the conditions or scope of detention of individuals in removal proceedings, it does bar claims "challenging the decision to detain them in the first place." *Jennings*, 583 U.S. at 294 (plurality op.); *see also Khalil*, 2026 WL 111933, at *11 (construing binding plurality holding of *Jennings* necessarily to bar review of certain decisions made prior to final order of removal); *S.Q.D.C.*, 2025 WL 2617973 at *3. By making such a challenge, the habeas claim here requires a court to answer "legal questions" that arise from "an action taken to remove an alien." *Jennings*, 583 U.S. at 295 n.3 (plurality op.); *see also Khalil*, 2026 WL 111933, *15 (holding that INA precludes review of "legal questions that a [petition for review] court can meaningfully review later on"); *but see Kourouma v. Jamison*, No. 26-cv-182 (E.D. Pa. Jan. 15, 2026) (Marston, J.) (reading *Khalil*'s construction of § 1252(b)(9) to preclude jurisdiction over challenges "inextricably linked" to removal process); *Restrepo v. Jamison*, No. 25-cv-6518 (January 20, 2026) (J. Leeson) (reading *Khalil*'s construction to preclude review of challenges that are not detention-specific and that necessarily challenge the government's decision to commence removal proceedings). Petitioner's claims "fall within the scope of § 1252(b)(9)." *Jennings*, 583 U.S. at 295 n.3.

"Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the PFR [*i.e.*, petition for review] process." *J.E.F.M.*, 837 F.3d at 1031. ("[W]hile these sections limit *how* immigrants can challenge their removal proceedings, they are not jurisdiction-stripping statutes that, by their terms, foreclose *all* judicial review of agency actions. Instead, the provisions channel judicial review over final orders of removal to the courts of appeals.") (emphasis in original); *see id.* at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges … whenever they 'arise from' removal proceedings"); *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007).

Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that "[n]othing … in any other provision of this chapter … shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) ("[J]urisdiction to review such claims is vested exclusively in the courts of appeals").

The petition-for-review process before courts of appeals ensures that noncitizens have a proper forum for claims arising from their immigration proceedings and "receive their day in court." *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("the REAL ID Act of 2005 amended the [INA] to obviate … Suspension Clause concerns," by permitting judicial review of "nondiscretionary" Board of Immigration Appeals determinations and "all constitutional claims or questions of law"). These provisions divest district courts of jurisdiction to review both direct and indirect challenges to removal orders, including decisions to detain for purposes of removal or for proceedings. *See Jennings*, 583 U.S. at 294–95 (plurality op. in *dicta*, presuming that § 1252(b)(9) includes challenges to the "decision to detain [an alien] in the first place or to seek removal"); *see also Khalil*, 2026 WL 111933, *11–12 (describing *Jennings*' binding plurality opinion's "strong implication that § 1252(b)(9) covers at least some challenges to detention before a final order of removal").

3. 8 U.S.C. § 1252(a)(2)(B)(ii) shields from judicial review discretionary decisions, such as charge determinations regarding inadmissibility.

Furthermore, § 1252(a)(2)(B)(ii) provides that "no court shall have jurisdiction to review … any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this

subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security." 8 U.S.C. § 1252(a)(2)(B).

Thus, even if there were any remaining ambiguity as to whether a foreign national could challenge the decision to detain him during removal proceedings, Congress added this additional jurisdictional bar to clarify that courts may not entertain a challenge to a discretionary decision under the INA.

B. Neither a grant of discretionary parole nor a later revocation of parole changes Petitioner's legal status as an inadmissible arriving alien.

Petitioner's habeas claims largely rest on his arguments that DHS impermissibly revoked his discretionary parole, leading to his current detention.

Under the INA and its implementing regulations, Petitioner was—and remains—an inadmissible arriving alien. Specifically:

> Arriving alien means an applicant for admission coming or attempting to come into the United States at a port-of-entry[ ] .... An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the [INA], and even after any such parole is terminated or revoked....

8 C.F.R. § 1001.1(q); *see also* 8 U.S.C. § 1225(a)(1) ("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 ...) shall be deemed for purposes of this chapter an applicant for admission.").

As an "arriving alien"—which constitutes a distinct category of "applicants for admission" than the category considered by the Board of Immigration Appeals in *Matter of Hurtado*, 29 I.&N. Dec. 216 (B.I.A. 2025)—Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See* 8 C.F.R. § 235.3(c)(1). Custody regulations exclude arriving aliens from receiving a bond hearing. Specifically, 8 C.F.R. § 1003.19(h)(2)(i) provides that an immigration judge "may not redetermine

conditions of custody" (i.e., set bond) "with respect to . . . (B) Arriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act."

Courts have similarly held that the statutory language of INA § 235(b) is clear: arriving aliens who are not clearly and beyond a doubt entitled to admission must be detained. *See Jennings*, 583 U.S. at 287–88; *Pierre v. Doll*, 350 F.Supp.3d 327, 330 (M.D. Pa. 2018) ("Decisions under § 1182 are purely discretionary and the regulations prevent an immigration judge from 'redetermin[ing] conditions of custody' with respect to certain classes of aliens, including '[a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act.'")

Here, Petitioner applied for admission into the United States at a port-of-entry. *See* Pet. ¶ 20. "Thus, by definition, he is an arriving alien." *Contreras v. Oddo*, 2025 WL 2104428, *4 (W.D. Pa. July 28, 2025); *see also* Pet. Ex. B (Notice to Appear charging Petitioner as an "arriving alien").[3] Moreover, "an inadmissible arriving alien, such as Petitioner, is entitled to an asylum interview based on a claim that the alien indicates an intention to apply for asylum or a fear of persecution; *the alien's detention is mandatory absent DHS's discretionary decision to parole the alien, and the alien is not entitled to a bond hearing*." *Id.* (emphasis added). *But see A-J-R v. Rokosky,* 2026 WL 25056, *5 (D.N.J. Jan. 5, 2026).

[3] Notably, Judge Kenney of this Court recently rejected a similar government argument relying on the "arriving alien" distinction, but did so by placing great weight on the government's reclassification of the petitioner in a superseding Notice to Appear as an "alien present in the United States" who had "arrived in the United States" one year before. *See Vasquez-Rosario v. Noem*, No. 25-cv-7427, 2026 WL 196505, at *5 (E.D. Pa. Jan. 26, 2026). By contrast, here, Petitioner's Notice to Appear classified Petitioner as an "arriving alien" and the petition does not allege the government has issued a subsequent, superseding Notice to Appear. *See* Ex. A (Notice to Appear).

That is, "applicants for admission may be temporarily released on parole 'in a case-by-case basis for urgent humanitarian reasons or significant public benefit.'" *Contreas,* 2025 WL 2104428 at *5 (quoting 8 U.S.C. § 1182(d)(5)(A)) (citing *Pierre*, 350 F.Supp.3d at 330 ("Decisions under § 1182 are purely discretionary.")); 8 C.F.R. § 212.5(b) (setting forth general considerations for parole from custody)). However,

> [P]arole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of [DHS], have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

Contreas, 2025 WL 2104428 at *5 (quoting 8 U.S.C. § 1182(d)(5)(A) and citing *Chi Thon Ngo v. INS*, 192 F.3d 390, 392 n.1 (3d Cir. 1999) ("When parole is revoked, the alien reverts to the status of an applicant for admission.")). "In short, the decision to grant and revoke parole to an inadmissible arriving alien is discretionary." *Id.*

Here, therefore, although Petitioner may previously have been paroled into the United States, a later decision to revoke that parole "is left to the discretion of the Executive Branch." *Id.* And "without Petitioner's grant of parole, his detention is mandatory as an inadmissible arriving alien." *Id.* (citing 8 U.S.C. § 1225(b)(1)). "Thus, under the applicable law, Petitioner's detention is lawful." *Id.*

C. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2).

Should the Court determine that it has jurisdiction to consider the habeas petition, it should nevertheless hold that Petitioner's argument fails on the merits.

There is a statutory distinction between aliens who are detained after lawful admission into the United States and those who are present without lawful admission. An individual who "arrives in the United States," or is "present" in this country but "has not been admitted," is considered an "applicant for admission" under 8 U.S.C. § 1225(a)(1). *Jennings*, 583 U.S. at 287; *Garibay-Robledo v. Noem*, 2025 WL 3264482, *3 (N.D. Tex. Sept. 15, 2025) (order on reconsideration Oct. 24,

2025). Applicants for admission are either covered by § 1225(b)(1) or § 1225(b)(2). *See Jennings*, 583 U.S. at 287 (§ 1225(b)(2) "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1)") (emphasis added).

Pursuant to 8 U.S.C. § 1225(b)(2)(A), "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 [removal proceedings]." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has held that § 1225(b)(2)(A) is a mandatory detention statute and that individuals detained pursuant to that provision are not entitled to bond. *Jennings*, 583 U.S. at 287 ("Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens.").

Petitioner falls squarely within the ambit of § 1225(b)(2)(A)'s mandatory detention requirement. Although Petitioner may previously have been paroled into the United States after seeking admission at a port of entry, he was and remains an "applicant for admission" to the United States. *See Matter of Lemus*, 25 I.&N. Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally . . . received such permission…."). As an "applicant for admission," Petitioner's detention is mandatory, absent a grant of discretionary parole. 8 U.S.C. § 1225(b)(2)(A) (stating applicant for admission "shall be" detained).

The Supreme Court has confirmed that an alien who is present in the country but never admitted is deemed "an applicant for admission" and that "detention must continue" "until removal proceedings have concluded" based on the "plain meaning" of 8 U.S.C. § 1225. *Jennings,* 583 U.S. at 289, 299. At issue in *Jennings* was the statutory interpretation of and interplay between § 1225(b) and § 1226. The

Supreme Court reversed the Ninth Circuit Court of Appeals' imposition of a six-month time limit to § 1225(b) and § 1226(c). *Id.* at 297. In reaching that holding, the Court declared that "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.'" *Id.* at 287 (emphasis added). As the Court explained, both aliens detained at the border and those without legal status residing within the United States fall under § 1225. *Id.* at 287–88. This includes Petitioner, who is an alien present in the country but not yet admitted. *See Garibay-Robledo*, 2025 WL 3264482 at *4–5 (explaining the statutory history of the INA, which supports reading the term "applicants for admission" to include aliens detained within the United States who have not been admitted).

An alien remains an applicant for admission, and subject to § 1225(b)(2), so long as he is "not clearly and beyond doubt entitled to be admitted" to the United States. *See* 8 U.S.C. § 1225(b)(2)(A). *See also* 8 U.S.C. § 1225(a) (defining applicant for admission as *either* "[a]n alien present in the United States who has not been admitted *or* who arrives in the United States ….") (emphasis added). Further, Congress defined *all* aliens who are present in the United States without being admitted as "applicant[s] for admission," regardless of when they entered. *See* 8 U.S.C. § 1225(a)(1).

When an immigration officer encounters and examines an applicant for admission who seeks to remain in the United States, and that alien (like Petitioner) desires to remain in the United States, he is necessarily "seeking admission" within the meaning of 8 U.S.C. § 1225(b)(2)(A). Otherwise, the alien must "withdraw the application for admission and depart immediately from the United States." 8 U.S.C. § 1225(a)(4). An alien continues to be "seeking admission" while in immigration removal proceedings to determine whether he can "be admitted to the United States." *See* 8 U.S.C. § 1229a(3).

Petitioner remains an applicant for admission, as he has not clearly and beyond doubt established that he is entitled to be admitted to the United States. Consequently, he is subject to mandatory detention under § 1225(b)(2), and ineligible for a bond hearing before an immigration judge.

D. Petitioner's detention does not violate constitutional due process.

Congress broadly crafted "applicants for admission" to include undocumented persons, like Petitioner, who are present within the United States. *See* 8 U.S.C. § 1225(a)(1). In so doing, Congress made a legislative judgment to detain undocumented persons during removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *Jennings*, 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded.").

The Supreme Court has repeatedly recognized this profound interest. Petitioner's mandatory detention pursuant to §1225(b) will only last the duration of his removal proceedings. *Demore,* 538 U.S. at 512 ("[B]ecause the statutory provision at issue in this case governs detention of deportable criminal aliens *pending their removal proceedings,* the detention necessarily serves the purpose of preventing the aliens from fleeing prior to or during such proceedings"); *see also Jennings,* 583 U.S. at 304. In light of Congress's interest in regulating immigration, including by keeping specified persons in detention pending the removal period, the Supreme Court dispensed of any due process concerns without engaging in the test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See generally Demore*, 538 U.S. at 531.

Petitioner's recent detention pending his removal proceedings does not violate the Due Process Clause. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention less than six months presumed constitutional). Congress made the

decision to detain him pending removal, which is a "constitutionally permissible part of that process." *Demore*, 538 U.S. at 531.

The Third Circuit has recognized that there may come a time when mandatory civil detention without a bond hearing becomes unreasonable. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c)). However, at this time, Petitioner does not challenge the reasonableness of his detention under *German Santos*.

V. CONCLUSION

For the foregoing reasons, respondents respectfully request that the petition for writ of habeas corpus and motion for temporary restraining order be denied.

Respectfully submitted,

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Dated: February 3, 2026

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Response in Opposition to Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: February 3, 2026

/s/ Landon Y. Jones
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Assistant United States Attorney

Exhibit A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Event No: SYS2305006594

Subject ID : [redacted] FIN #: [redacted]
SIGMA Event: [redacted] DOB: [redacted]
File No: [redacted]
In the Matter of: MURODOV, OTABEK

Respondent: MURODOV, Otabek [redacted] currently residing at:

(Number, street, city, state and ZIP code) (Area code and phone number)

[x] You are an arriving alien.

[ ] You are an alien present in the United States who has not been admitted or paroled.

[ ] You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Uzbekistan and a citizen of Uzbekistan;
3. You applied for admission on May 17, 2023, at the SAN YSIDRO PORT OF ENTRY PEDWEST FACILITY;
4. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

[ ] This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

[ ] Section 235(b)(1) order was vacated pursuant to: [ ] 8CFR 208.30 [ ] 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

900 Market Street Suite 504,
Philadelphia, PA, US 19107

(Complete Address of Immigration Court, including Room Number, if any)

on April 10, 2024 *(Date)* at 01:00 PM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

VELASQUEZ, CAR25212

CBP OFFICER

(Signature and Title of Issuing Officer) (Sign in ink)

Date: May 17, 2023

SAN YSIDRO, CALIFORNIA

(City and State)

EOIR – 1 of 4

Notice to Respondent

Warning: *Any statement you make may be used against you in removal proceedings.*

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form 1-589, Application for Asylum and for Withholding of Removal. The Form 1-589, Instructions, and information on where to file the Form can be found at **www.uscis.gov/i-589.** Failure to file the Form 1-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at **http://www.ice.gov/contact/ero,** as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

(Signature of Respondent) (Sign in ink)

Date: _____

_____

(Signature and Title of Immigration Officer) (Sign in ink)

Certificate of Service

This Notice To Appear was served on the respondent by me on May 17, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- [x] in person
- [ ] by certified mail, returned receipt # _____ requested
- [ ] by regular mail
- [ ] Attached is a credible fear worksheet.
- [x] Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the RUSSIAN language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

_____

(Signature of Respondent if Personally Served) (Sign in ink)

VELASQUEZ, CAR25212
CBP OFFICER

(Signature and Title of officer) (Sign in ink)

EOIR – 2 of 4

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following OHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned OHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and OHS policy, the information you provide may be shared internally within OHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

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U.S. Department of Homeland Security **Continuation Page for Form** I862

Alien's Name	File Number	Date
MURODOV, OTABEK	SIGMA Event [redacted] Event No: S[redacted]	May 17, 2023

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature	Title
VELASQUEZ, CAR25212	CBP OFFICER

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Form I-831 Continuation Page (Rev. 08/01/07)