UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0: 26-cv-00892-MJD-JFD

JOANA JEANTY,

Petitioner,

v.

PAM BONDI, et al.,

Respondents.

**FEDERAL RESPONDENTS' RESPONSE TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS**

Federal Respondents submit this response to Petitioner's petition for writ of habeas corpus, ECF No. 1, pursuant to the Court's briefing order, ECF No. 3.

This is ***not*** one of the now familiar cases about the government's interpretation of 8 U.S.C. § 1225(b)(2). This case is different. Petitioner is a noncitizen who was presented himself at the border in April 2023 and has been eligible for expedited removal proceedings under § 1225(b)(1). He was initially paroled, and then applied for asylum, resulting in his mandatory detention "for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii); *see also Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (summarizing § 1225(b)'s mandatory-detention authorities).

Petitioner is not, as she suggests, misclassified as a noncitizen seeking admission under 8 U.S.C. § 1225(b)(2). Pet. ¶ 8. This case is therefore materially different from others in this district and elsewhere, addressing the government's contested interpretation of § 1225(b)(2). The government's position in this case does not depend on the contested interpretation of § 1225(b)(2) but instead follows from a plain text analysis of § 1225(b)(1).

Petitioner is therefore properly subject to mandatory detention under § 1225(b), and the Court should dismiss her habeas petition.

## BACKGROUND

Petitioner is a citizen and national of Haiti. Pet. ¶ 1; Ex. C. She entered the United States on May 25, 2024, and was released into the country on Humanitarian Parole. See Pet. Ex. A. Petitioner admits that status expired on June 12, 2025, and makes no claim to lawful status or presence in the United States. ECF No. 1 ¶ 4.

Petitioner was arrested by U.S. Immigration and Customs Enforcement (ICE) in November 20, 2025, and placed in full removal proceedings. ECF No. 1 ¶ 5. She was issued a Notice to Appear, on which the agency classified her as an "arriving alien." *See* Pet. Ex. C. ICE maintains that Petitioner is properly subject to mandatory detention "for further consideration of the application for asylum," as required in 8 U.S.C. § 1225(b)(1)(B)(ii). Petitioner remains detained in Minnesota.

## ARGUMENT

The Court is familiar by now with the detention provisions in §§ 1225 and 1226. But most of the recent litigation has focused specifically on § 1225(b)(2), which imposes mandatory detention on "applicants for admission . . . seeking admission" into the United States. 8 U.S.C. § 1225(b)(2)(A). But this case is different: Petitioner is an arriving alien subject to § 1225(b)(1), not (b)(2).

### I. Petitioner is properly subject to mandatory detention under § 1225(b)(1)(B)(ii).

This case involves § 1225(b)(1) and is different from the extensive litigation over § 1225(b)(2)'s mandatory-detention framework. *E.g.*, *Belsai D.S.*, 2025 WL 2802947, at *6 (addressing "Respondents' interpretation of § 1225(b)(2)"). The Court should begin and end its analysis with the text of that provision paragraph (b)(1).

**A. Petitioner is subject to mandatory detention under § 1225(b)(1).**

Section 1225(b)(1)(A) creates an expedited removal process for noncitizens "arriving" in the United States who are found inadmissible after initial inspection. 8 U.S.C. § 1225(b)(1)(A)(i). The only way around expedited removal under clause (i) is for asylum seekers under clause (ii). A noncitizen can invoke the asylum proceedings in clause (ii) by "indicat[ing] either an intention to apply for asylum under section 1158 of this title or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(ii). In that case, an immigration "officer shall refer the [noncitizen] for an interview by an asylum officer under subparagraph (B)." *Id.*

Subparagraph (B), in turn, directs the conduct of the asylum proceeding. *Id.* § 1225(b)(1)(B). The asylum officer first conducts a credible-fear interview. *Id.* § 1225(b)(1)(B)(i). "If the officer determines at the time of the interview that [a noncitizen] has a credible fear of persecution (within the meaning of clause (v)), the [noncitizen] *shall be detained* for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii) (emphasis added). If the officer concludes the noncitizen "does not have a credible fear of persecution, the officer shall order the [noncitizen] removed from the United States without further hearing or review." *Id.* § 1225(b)(1)(B)(iii)(I). "Any [noncitizen] subject to the procedures under this clause *shall be detained* pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV) (emphasis added). The plain import of this language is that any noncitizen subject to expedited removal who claims a fear of persecution upon arrival is subject to mandatory detention pending the outcome of their asylum application, whether

their expressed fear of persecution is found credible or not. *See Jennings*, 583 U.S. at 287 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded. . . . And neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.").

The mandatory-detention provision in § 1225(b)(1)(B)(ii) applies to Petitioner. He was encountered by immigration authorities upon entering the country and was granted parole by U.S. Customs and Border Protection. Fuller Decl. Ex. B. Petitioner affirmatively pleads that he has a pending asylum application. Pet. ¶ 4; *see also* Fuller Decl. Ex. B. The statute therefore requires that he "shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(B)(ii).

**B. Petitioner's attempt to invoke § 1225(b)(2) and case law interpreting it misunderstands those authorities and the nature of his status.**

Petitioner seeks to ride the wave of recent case law narrowly interpreting § 1225(b)(2), rejecting the government's broader interpretation, and entitling many immigration detainees to bond hearings under § 1226(a). Petitioner misunderstands those holdings and the nature of his status. That case law doesn't apply because he is not subject to § 1225(b)(2) or the government's contested interpretation of it.

The cases Petitioner cites in his Petition involve the interplay between the mandatory-detention authority in § 1225(b)(2) and the discretionary-detention authority in § 1226(a). In those cases, the noncitizen petitioners were detained under the government's interpretation of 8 U.S.C. § 1225(b)(2), as adopted by the Board of Immigration Appeals in in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). The *Hurtado* interpretation holds that a person who is present in the country without admission is an

"applicant for admission" under § 1225(a)(1) and is therefore subject to mandatory detention under § 1225(b)(2)(A) and not eligible for release on bond pending the outcome of § 1229a immigration proceedings—regardless of how long the person has been present in the country. *See Hurtado*, 29 I&N Dec. at 220.

Most, though not all, of the judges in this district have rejected this interpretation, concluding that mandatory under § 1225(b) applies only to those "applicants for admission" who are also "seeking admission." Crucially, these courts often construe "seeking admission" to mean "presently attempting to gain admission into the United States." But Petitioner here is indisputably "seeking admission"—even under the majority view's narrow interpretation—through her pending asylum claim. Pet. ¶ 4. From the moment he was encountered at the border, Petitioner was subject to expedited removal and mandatory detention. 8 U.S.C. § 1225(b)(1)(A)(i). He later invoked the asylum process in § 1225(b)(1)(B). Pet. ¶ 4; Fuller Decl. Ex. B.

By seeking asylum—and by continuing to pursue that status to this day—Petitioner is unambiguously "seeking admission." An asylum application, if granted, entitles the asylee to "asylum status" under 8 U.S.C. § 1158(c), including a stay of removal, work authorization, and a travel document. *Id.* § 1158(c)(1). "Asylum status" is a form of lawful status that meets the INA's definition of "admission," which means "the lawful entry . . . into the United States after inspection and authorization by an immigration officer," but which does not include parole. *Id.* § 1101(a)(13)(A), (B), 1158(d)(5).

Through that asylum process, Petitioner continues to pursue lawful status to this day. Pet. ¶ 4. He is "presently attempting to gain admission into the United States," and

is therefore "seeking admission" as the majority of courts interpret that phrase. Although he was paroled into the country, that act did not confer admission. 8 U.S.C. §§ 1101(a)(13)(B), 1158(d)(5). He has not withdrawn from the asylum process, and continues to seek legal status through the process he began some time ago. Petitioner is therefore unlike those others who have successfully disclaimed any attempt at "seeking admission."

One district court last month considered this issue and agreed that an asylum seeker was "seeking admission" under the narrower interpretation adopted by most courts. *Chen v. Almodovar*, 1:25-cv-8350, 2025 WL 348455, at *6 (S.D.N.Y. Dec. 4, 2025). The *Chen* court agreed with the government's interpretation of § 1225(b)(2) but went on to conclude that even under the majority view's narrower interpretation: "If actively 'seeking admission' is a distinct requirement for mandatory detention pursuant to 1225, seeking asylum *is* 'seeking admission,' [through asylum] within the meaning of the statute, since 'admission' is defined in terms of 'lawful' status, 8 U.S.C. § 1101(a)(13)(A), not physical presence on U.S. soil." *Id.* at *6.

Because Petitioner *is presently* "seeking admission" as the majority approach defines that term—he is presently applying for asylum and is therefore "presently attempting to gain admission into the United States"—he would be subject to § 1225(b)(2).

## II. Petitioner's claims all rely on his mistaken premise, that ICE is seeking to apply § 1225(b)(2) detention, and he has not sought relief on any other basis.

All Petitioner's claims—whether based on the Constitution, statute, or regulation—rely on the premise that ICE detained his under § 1225(b)(2). But that premise is mistaken, and his claims fail. The Court should deny relief on any other basis.

## CONCLUSION

Petitioner is subject to mandatory detention under § 1225(b), whether as a noncitizen with a pending asylum claim under (b)(1) or through the "catchall provision" in (b)(2).

Dated: February 2, 2026

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