UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case 26-60408-CIV-SINGHAL

LAZARO ANTONIO ALONZO-RAMIREZ,

Petitioner,

v.

KRISTI NOEM, Secretary, Department
of Homeland Security, *et al.*

Respondents.
______________________________________/

RESPONSE TO ORDER TO SHOW CAUSE

Respondents[1] hereby respond to the Court's Order to show cause why the Petition for Writ of Habeas Corpus should not be granted.

INTRODUCTION

Petitioner alleges that he entered the United States as an unaccompanied alien child in approximately April of 2021. [D.E. 1 at p. 1]. Petitioner was detained on or about November 16, 2025, following a traffic stop. *Id.* at ¶ 31. Thereafter, the Department of Homeland Security placed Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a, charging him with, *inter alia*,

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at the Broward Transitional Center (BTC. *See* Petition at ¶ 1. The only appropriate respondent named is Assistant Field Office Director (AFOD) Juan Gonzalez. All other respondents should be dismissed.

being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection. *Id.* at ¶ 32.

Petitioner is currently in custody at Broward Transitional Center pending removal proceedings. He alleges that he was unlawfully denied a bond hearing pursuant to an Immigrations and Customs Enforcement (ICE) policy that requires detention of "applicants for admission" who have entered the United States without admission or inspection, as provided in INA § 235(b) (codified at 8 U.S.C. § 1225). *See* D.E. 1 at ¶ 34.

Petitioner argues that because he was apprehended after having lived in the United States since 2021, he is not an "arriving alien" subject to INA § 235, but instead subject to INA § 236(a) (codified at 8 U.S.C. § 1226(a)), a provision of the INA that authorizes the arrest and detention of aliens pending removal on a warrant issued by the Attorney General, and which allows discretion for the alien's release on bond or through conditional parole. [D.E. 1 at ¶¶ 65-67]. Petitioner further argues that because he entered the country as an unaccompanied minor, he is exempt from the requirement of mandatory detention without the possibility of release on bond.

As demonstrated below, Petitioner is, in fact, an applicant for admission who entered the United States without inspection and is subject to INA § 235(b)'s (8 U.S.C. § 1225(b)) unequivocal requirement of detention.

FACTUAL BACKGROUND

Petitioner, Lazaro Antonio Alonzo-Ramirez (Petitioner) is a native and citizen of Guatemala. Exh. A, Form I-213, Record of Deportable/Inadmissible Alien (Form I-213), dated November 16, 2025. On or about May 29, 2019, Petitioner unlawfully entered the United States from Mexico. Exh. B, Declaration. On or about June 1, 2019, agents with U.S. Customs and Border Protection (CBP) encountered and arrested Petitioner and his father. Exh. B, Declaration.

Petitioner and his father were returned to Mexico under INA § 235(b)(2)(C) pending removal proceedings. Exh. B, Declaration. On June 4, 2019, the U.S. Department of Homeland Security (DHS) filed a Notice to Appear (NTA) with the Executive Office for Immigration Review (EOIR) charging Petitioner with inadmissibility under INA § 212(a)(7)(A)(i)(I). Exh. B, Declaration. On September 17, 2019, the immigration judge granted the DHS's motion to terminate proceedings due to procedural defects. Exh. B, Declaration.

On or about April 13, 2021, CBP encountered Petitioner after he again unlawfully entered the United States from Mexico. Exh. C, Form I-213, dated April 13, 2021. At the time, he was processed as an unaccompanied child (UAC). Exh. C, Form I-213, dated April 13, 2021. Petitioner was processed for a Notice to Appear under INA § 212(a)(6)(A)(i). Exh. C, Form I-213, dated April 13, 2021. Upon information and belief, an NTA was not filed with EOIR at that time. Exh. B, Declaration. On or about June 2, 2021, Petitioner was released from custody. *See* Hab. Pet., Document 1-3; *see also* Exh. D, Detention History.

On November 16, 2025, CBP encountered Petitioner following a vehicle stop for a traffic violation conducted by the Florida Highway Patrol. Exh. A, Form I-213. CBP determined that Petitioner was illegally in the United States and took him into custody. Exh. A, Form I-213. Exh. A, Form I-213. On or about November 17, 2025, Petitioner was taken into ICE custody. Exh. D, Detention History.

On December 8, 2025, DHS filed an NTA with EOIR, charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *See* Hab. Pet., Document 1-9

Petitioner requested a custody redetermination before the Krome Immigration Court, and on December 17, 2025, the Immigration Judge denied bond, finding that the court lacked jurisdiction under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Hab. Pet, Document 1-11. On December 29, 2025, the Immigration Judge denied Petitioner's Motion to Terminate, finding that Petitioner is no longer considered a UAC. *See* Hab. Pet., Document 1-12. Petitioner's removal proceedings are ongoing; his next master calendar hearing is scheduled for March 11, 2026. Exh. B, Declaration.

Petitioner is currently detained at the Broward Transitional Center in Miami, Florida. Exh. B, Declaration; *see also* Exh. D, Detention History.

ARGUMENT[2]

[2] The government submits the following arguments in good faith, supported by the Fifth Circuit Court of Appeals' decision in *See Buenrostro-Mendez v. Bondi,* No. 25-20496, 25-40701, ___F. 4th ___, 2026 WL 323330 (5th Cir. Feb. 6 2026) and decisions rendered in this District. *See, e.g., Iraheta Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL, ECF No. 10 (S.D. Fla. Jan. 29, 2026) (concluding that habeas petitioner who entered the United States without inspection in 2004 is an "applicant for admission" governed by 8 U.S.C. § 1225(b) and rejecting petitioner's argument the government must grant a bond hearing under 8 U.S.C. § 1226)); *Perez Morales v. Noem*, et al., No.26-60251-CIV DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026)(same, adopting the analysis of the Fifth Circuit majority opinion in *Buenrostro-Medina*); and *Mokanu v. Warden, Federal Detention Center Miami*, No. 25-24121-ARTAU, ECF No. 19 (S.D.Fla. Feb. 19, 2026) (holding that 8 USC 1252(g) prohibits the Court in a habeas proceeding from reviewing the denial of bond to a person present without admission or parole who is detained pursuant to 8 U.S.C. § 1225, and, on the merits, finding that petitioner who had been present in the country for years on humanitarian parole was an applicant for admission and subject to detention under 8 USC 1225(b)(2)).

Nevertheless, the government acknowledges that Judges in this District have reached the opposite conclusion on the legal issues presented. *See, e.g., Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025) ("§ 1226(a), not § 1225(b)(2), governs Petitioner's detention"); *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41, (S.D. Fla. Oct. 10, 2025) ("§ 1226 governs Petitioner's detention"); *Alvarez Puga v. Assistant Field Office Director Krome,* et al., No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025) (concluding that "prudential exhaustion

A. **Petitioner is an Applicant for Admission subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226(a) is Inapplicable.**

Petitioner is properly detained as an applicant for admission subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *See Buenrostro-Mendez v. Bondi,* No. 25-20496, 25-40701, ___F. 4th ___, 2026 WL 323330 (5th Cir. Feb. 6 2026) (holding that noncitizen petitioners in removal proceedings were subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because they were present in the United States without being admitted or paroled, despite having entered illegally many years ago; *Iraheta Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL, ECF No. 10 (S.D. Fla. Jan. 29, 2026) (concluding that habeas petitioner who entered the United States without inspection in 2004 is an "applicant for admission" governed by 8 U.S.C. § 1225(b) and rejecting petitioner's argument the government must grant a bond hearing under 8 U.S.C. § 1226); *Perez Morales v. Noem*, et al., No.26-60251-CIV DIMITROULEAS, ECF No. 15 (S.D.

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requirements are excused for futility" and finding that "section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A)"); *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN, ECF No. 8 (S.D. Fla. Dec. 22, 2025) (finding good cause to excuse Petitioner's failure to exhaust administrative remedies where it is evident the BIA will reject Petitioner's request for a bond hearing or release and that Petitioner is subject to detention under § 1226(a) and entitled to a bond hearing before an immigration judge); *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA, ECF NO.14 (Jan. 5, 2026) (concluding that jurisdiction is not barred by 8 U.S.C. § 1252, exhaustion was not required, and that the petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)); *Martinez v. Field Off. Dir.*, No. 25-26026-CIV-LEIBOWITZ, ECF No. 7 (S.D. Fla. Jan. 14, 2026) ("Pending the Eleventh Circuit's resolution of this issue, the Court continues to side with the clear weight of existing authority in finding that Petitioner here is entitled to a prompt, individualized bond hearing under 8 U.S.C. § 1226(a)"); *Espinal Encarnacion v. ICE Field Office Director*, et al., No. 25-61898-CIV-DAMIAN, ECF No. 29 (Dec. 23, 2025) ("this Court finds that 8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner's detention, and not Section 1225(b)"); *Ocegueda Gonzalez v. Noem,* et al., No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH, ECF No. 25 (Dec. 23, 2025) ("Having concluded that Petitioner's detention is governed by 8 U.S.C. § 1226(a), Petitioner is entitled to an individualized bond hearing before an immigration judge."); and *Fuentes Granados v. Secretary of Homeland Security*, Case No. 26-60020-CIV-SMITH, ECF No. 7 (S.D. Fla. Jan. 27, 2026) ("Petitioner is being unlawfully detained due to his improper classification as "an alien who is an applicant for admission" pursuant to 8 U.S.C. § 1225(b)(2)(A)[;] . . .Petitioner's proper classification is a detainee pursuant to 8 U.S.C. § 1226(a)").

Fla. Feb. 9, 2026)(same, adopting the analysis of the Fifth Circuit majority opinion in *Buenrostro-Medina*); and *Mokanu v. Warden, Federal Detention Center Miami*, No. 25-24121-ARTAU, ECF No. 19 (S.D.Fla. Feb. 19, 2026) (same; and holding that 8 USC 1252(g) prohibits the Court in a habeas proceeding from reviewing the denial of bond to a person detained pursuant to 8 U.S.C. § 1225).

The Fifth Circuit in *Buenrostro-Mendez* recognized that "[s]ince DHS began to detain unadmitted aliens under§ 1225(b)(2)(A), well over a thousand aliens have filed habeas corpus petitions seeking bond hearings[] [and,] [i]n most of these cases, the district court found in favor of the petitioner." *Id.* at *3. Nevertheless, the court concluded that presence without admission renders an individual like Petitioner to be both an "applicant for admission" and "seeking admission" under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention--regardless of how much time the individual has been present in the United States. *Buenrostro-Mendez*, at *4-9.

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an "applicant for admission" as 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 . . .) . . . ." 8 U.S.C. § 1225(a)(1); *see Buenrostro-Mendez,* at 2 ("an alien's status as an applicant for admission does not turn on where or how the alien entered the United States"); *Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission.").

By its very definition, the term "applicant for admission" includes two categories of aliens: (1) arriving aliens, and (2) aliens present without admission. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'"); *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 requested or received such permission . . . ."); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted"). An arriving alien is defined, in pertinent part, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry [("POE")] . . . ." 8 C.F.R. §§ 1.2, 1001.1(q).

All aliens who are applicants for admission "shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection . . . ."). An applicant for admission at a United States POE "must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the immigration laws . . . to enter the United States." 8 C.F.R. § 235.1(f)(1); *see also* 8 U.S.C. § 1229a(c)(2)(A) (explaining that an applicant for admission has the burden to establish that he or she is clearly and beyond doubt entitled to be admitted and is not inadmissible under 8 U.S.C. § 1182 in removal proceedings pursuant to § 1229a). "An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated

[POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a]." 8 C.F.R. § 235.1(f)(2).

The Fifth Circuit's decision in *Buenrostro-Mendez* is consistent not only with the plain language of § 1225(b)(2), but also with the Supreme Court's decision in *Jennings v. Rodriguez,* 583 U.S. 281 (2018), and subsequent caselaw post *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is "quite clear" and "unequivocally mandate[s]" detention. 583 U.S. at 300, 303.

Additionally, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the BIA held that an alien who unlawfully entered the United States between POEs, was arrested and detained without a warrant while arriving, and was previously released from DHS custody pursuant to an 8 U.S.C. § 1182(d)(5)(A) parole is detained under § 1225(b) upon re-detention. 29 I&N Dec. at 70-71. This ongoing evolution of the law makes clear that all applicants for admission in various procedural postures are subject to detention under § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (stating that "no amount of policy-talk can overcome a plain statutory command"); *see generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit"). *Florida's* conclusion "that § 1225(b)'s 'shall be detained' means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*." *Florida*, 660 F. Supp. 3d at 1273.

Contrary to his allegations in this case, Petitioner here is an alien present in the United States who has not been admitted, subject to removal and detention provisions in 8 U.S.C. § 1225(b)(2). Petitioner, entered the United on or about April 13, 2021, as a 17-year-old unaccompanied alien child ("UAC"). Under the Homeland Security Act of 2002 ("HSA"), a UAC

is someone who: "(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody." 6 U.S.C. § 279(g)(2) ("Section 279"). The HSA transferred the responsibility for care of UACs in Federal custody by reason of their immigration status to the Office of Refugee Resettlement ("ORR") within the Department of Health and Human Services ("HHS"). *Id.* § 279(a), (b)(1)(A). The Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), provides that "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services." 8 U.S.C. § 1232(b)(1) ("Section 1232"). Although the TVPRA transferred responsibility for care and custody of UACs to ORR, "it did not alter their immigration status." *Mendez Ramirez v. Decker*, et al., 612 F.Supp.3d 200, 206 (S.D.N.Y. 2020).

An individual is not a UAC if and when he is released to a parent's custody. *Id.* Moreover, a UAC ceases to be a UAC when he turns eighteen. *Id.* at 212 (citing 6 U.S.C. § 279(g) (2)(B) and *Matter of Castro-Tum*, 27 I. & N. Dec. 271, 277 n.4 (2018)). Petitioner here was released to his brother's custody in June of 2021. Further, Petitioner does not, and cannot, allege that he was under the age of eighteen at the time of his arrest in November of 2025. As such, despite the fact that he was an UAC when he arrived in the United States in 2021, he was not a UAC when he was detained in November of 2025. Consequently, he is in the same position as any alien present in the United States who has not been admitted as contemplated by 8 U.S.C. § 1225. Petitioner is properly subject to mandatory detention under 8 U.S.C. § 1225(b) and thus the petition should be denied.

B. Petitioner is an Applicant for Admission in 8 U.S.C. § 1229a Removal Proceedings and, as such, his Detention Pursuant to 8 U.S.C. § 1225(b)(2)(A) is Proper.

Both arriving aliens and aliens present without admission or parole are applicants for admission and may be removed from the United States by expedited removal procedures under 8 U.S.C. § 1225(b)(1) or removal proceedings before an immigration judge under 8 U.S.C. § 1229a. See 8 U.S.C §§ 1225(b)(1), (b)(2)(A); *Jennings,* 583 U.S. at 287 (describing how "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)").

Petitioner is currently in § 1229a removal proceedings and is subject to mandatory detention under § 1225(b)(2)(A). *See* Notice to Appear, D.E. 1-9. Under 8 U.S.C. § 1225(b)(2)(A), "an alien who is an applicant for admission" "*shall be detained* for a proceeding under [8 U.S.C. § 1229a]" "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) (emphasis added); 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under 8 U.S.C. § 1225 "shall be detained" pursuant to § 1225(b)(2)). As the Supreme Court observed in *Jennings*, nothing in § 1225(b)(2)(A) "says anything whatsoever about bond hearings." 583 U.S. at 297.

C. Section 1226 does Not Impact the Detention Authority that Governs with respect to Applicants for Admission in removal proceedings.

Petitioner urges the Court to find that his detention (and eligibility for release on bond) is governed by 8 U.S.C. § 1226(a), but that is incorrect. Section 1226(a) is the applicable detention authority for aliens who have been admitted and are subject to removal proceedings under § 1229, and it does not impact the directive in § 1225(b)(2)(A) that "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 proceedings under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A). Section § 1226(a) "applies to aliens already present in the United States" and "creates a default rule for those aliens by permitting—but not requiring—the [Secretary] to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N Dec. at 516 (describing 8 U.S.C. § 1226(a) as a "permissive" detention authority separate from the "mandatory" detention authority under 8 U.S.C. § 1225). As the Fifth Circuit observed in *Buenrostro-Mendez*, § 1226(a) "does work independent from § 1225(b)(2)(A) because only § 1226(a) applies to admitted aliens who overstay their visas, become deportable on many different grounds, or were admitted erroneously due to fraud or some other error." *Buenrostro-Mendez*, at *7.

Generally, such aliens may be released on bond or their own recognizance, also known as "conditional parole." 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. Section 1226(a) does not, however, confer the *right* to be released on bond; rather, both DHS and immigration judges have broad discretion in determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). To interpret § 1225(b)(2)(A) as not applying to all applicants for admission would render it meaningless. As explained above, Congress expanded § 1225(b) in 1996 to apply to a broader category of aliens, including those aliens who crossed the border illegally. There would have been no need for Congress to make such a change if § 1226(a) was meant to apply to aliens present without admission.

D. Applicants for Admission may Only be Released from Detention on an 8 U.S.C. § 1182(d)(5) Parole.

DHS has the exclusive authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5); *see* 8 C.F.R. § 212.5(b). In *Jennings*, the Supreme Court placed significance on the fact that § 1182(d)(5) is the specific provision that authorizes temporary release from detention under § 1225(b). 583 U.S. at 300.

Parole, like an admission, is a factual occurrence. *See Hing Sum*, 602 F.3d at 1098; *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025) (treating whether an alien was paroled as a question of fact). The parole authority under 8 U.S.C. § 1182(d)(5) is "delegated solely to the Secretary of Homeland Security." *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 261 (BIA 2010); *see* 8 C.F.R. § 212.5(a). Thus, neither the BIA nor immigration judges have authority to parole an alien into the United States under § 1182(d)(5). *Castillo-Padilla*, 25 I&N Dec. at 261; *see also Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771, 777 n.5 (BIA 2002) (indicating that "parole authority [under 8 U.S.C. § 1182(d)(5)] is now exercised exclusively by the DHS" and "reference to the Attorney General in [8 U.S.C. § 1182(d)(5)] is thus deemed to refer to the Secretary of Homeland Security"). Lastly, because DHS has exclusive jurisdiction to parole an alien into the United States, the manner in which DHS exercises its parole authority may not be reviewed by an immigration judge or the BIA. *Castillo-Padilla*, 25 I&N Dec. at 261; *see Matter of Castellon*, 17 I&N Dec. 616, 620 (BIA 1981) (noting that the BIA does not have authority to review the way DHS exercises its parole authority).

E. The Fact that Petitioner Entered the Country as an Unaccompanied Minor in 2021 Does Not Exempt Him from Mandatory Detention or Entitle him to a Bond Hearing.

Petitioner argues that because he entered the country as an unaccompanied minor, he is exempt from the requirement of mandatory detention. [D.E. 1 at ¶¶ 57-64]. In support of his assertion, Petitioner notes that Congress has, in certain instances, made provisions for the protection of unaccompanied minors from adults in the administration of the INA. Petitioner points to 8 U.S.C. § 1232 which govern the detention, transfer, and placement of UACs. Petitioner construes 8 U.S.C. § 1232(a)(5)(D)(i) as exempting unaccompanied minors from non-contiguous countries from expedited removal, and notes that, under § 1232(b)(1), "the care and custody of all unaccompanied alien children … [are] the responsibility of the Secretary of Health and Human Services." Petition at ¶ 40 (quoting 8 U.S.C. § 1232). Petitioner argues that the enactment of these provisions for unaccompanied minors reflects Congress's intent to treat unaccompanied minors differently from adults who arrive without lawful admission. [D,E, 1 at ¶¶ 8-10]. Based on his assessment of Congress' intent, Petitioner argues that he "was not 'seeking admission' within the meaning of § 1225(b) but was 'already in the country' within the meaning of *Jennings*, 583 U.S. at 288–89." [D.E. 1 at ¶ 70].

But as the provisions Petitioner cites demonstrate, Congress is capable of enacting laws that treat unaccompanied minors differently with respect to the administration of the INA. Petitioner is asking the Court to judicially establish protections that Congress itself has not enacted. Congress has made no provision exempting individuals who entered the country as unaccompanied minors from the mandatory detention provision in 8 U.S.C § 1225(b)(2). Moreover, the provisions Petitioner has cited as indicative of Congress's intent do not reflect any intent to shield unaccompanied minors from enforcement of the nation's immigration laws altogether. Section 8 U.S.C. § 1232(a)(5)(D)(i), for example, still allows for the placement of unaccompanied minors in removal

proceedings, albeit with a right to counsel and the right to voluntary departure under 8 U.S.C. § 1229c that is not guaranteed to adults in removal proceedings.

Finally, Petitioner is not currently a UAC. As explained above, Petitioner ceased being a UAC when he turned eighteen. None of the provisions he cites concerning the care and custody of UAC's would apply to him. Additionally, the *Flores Settlement* referenced by Petitioner in his Petition applies only to UACs in ICE custody, and does not apply once the UAC turns 18. As already discussed, Petitioner was not a UAC at the time he was detained in November of 2025, and thus, the *Flores Settlement* has no bearing on this case. *See* D.E. 1 at ¶¶ 57-59 (continuously referencing "minors in deportation proceedings" but making no reference to adults in deportation proceedings). The *J.O.P. Settlement* also has no effect on the current removal proceedings. Petitioner cites to the settlement agreement to argue that Petitioner is both entitled to a bond hearing and free from removal during the pendency of his asylum application. However, nothing in the *J.O.P. Settlement* agreement precludes ICE from conducting removal proceedings or detaining Petitioner without a bond hearing. *See* Exhibit E, *J.O.P. Settlement Agreement*. Rather, the settlement agreement simply states that ICE cannot remove petitioner prior to a final determination on his asylum application. However, Petitioner is still in removal proceedings and not yet subject to a final order of removal, therefore, this settlement agreement has no effect on the current case in its procedural posture.

F. CONCLUSION

Petitioner is properly detained under 8 U.S.C. § 1225(b), and neither the *Flores* nor *J.O.P. Settlement Agreements* require that Petitioner be granted bond or released from detention. Accordingly, the Court should deny Petitioner's habeas petition.

Respectfully Submitted,

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