

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ANKIT MOR,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:26-cv-235
	)	
WARDEN, FOLKSTON ICE	)	
PROCESSING CENTER,	)	
	)	
Respondent.	)	

ABBREVIATED RESPONSE TO PETITION
AND RESPONSE TO SHOW CAUSE ORDER

I. Introduction

Petitioner filed a habeas corpus petition pursuant to 28 U.S.C. § 2241, one of many now pending in this Court challenging a petitioner's designation as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner contends that his detention is properly grounded in 8 U.S.C. § 1226, which—unlike § 1225—generally authorizes immigration judges to release aliens on bond. Petitioner's claims that Respondent's incorrect reading of the Immigration and Nationality Act ("INA") has deprived him of the opportunity for release on bond—thus resulting in his unlawful detention.

The Court issued an Order directing Respondent to show cause within five business days why the Court should not grant the same relief to Petitioner that the Court granted to petitioners in the recently adjudicated *Villa* case. *See Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and*

recommendation adopted, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025). Respondent contends that none of Petitioner's claims are meritorious and thus asks the Court to deny the instant habeas corpus petition.¹

That said, Respondent recognizes this Court's prior ruling in *Villa* concerning a similar challenge to the detention authority at issue here and acknowledges that, if Court adheres to its legal reasoning in *Villa*, it will control the result in this case.

Among *prostro-Mendez v. Bondi*, ___ F.4th ___, No. 25-20496, 2026 WL 323330 (5th Cir. 2026) (reaching opposite conclusion and sustaining Respondent's

While reserving all rights, including the right to appeal, Respondent submitted a truncated response in lieu of an exhaustive opposition brief to preserve the legal issues and to conserve the resources of the Court and the parties. Consistent with the Court's Show Cause Order, Respondent confines its briefing to the INA statutory-interpretation issue addressed in this Court's *Villa* opinion. Should the Court desire a more exhaustive response memorandum or briefing on claims (or counts) not explicitly addressed herein, Respondent respectfully requests leave to file such a brief and will do so upon the Court's request.

II. Statutory Framework

The INA contains two complementary provisions, 8 U.S.C. §§ 1225 and 1226,

¹ The only proper respondent in this habeas corpus matter is the Warden of Folkston ICE Processing Center. See *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) ("the proper respondent [in a habeas corpus petition] is the warden of the facility where the prisoner is being held"); *Grimes v. Geter*, No. 2:20-cv-42, 2020 WL 13917844, at *1 (S.D. Ga. Apr. 24, 2020) (Cheesbro, J.) ("The only proper respondent in a § 2241 case such as this is the inmate's immediate custodian—the warden of the facility where the inmate is confined.").

governing the detention of aliens prior to issuance of a removal order. Section 1225 applies to “applicants for admission,” who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of prosecution, or is “found not to have such a fear,” he is detained until removed. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “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); see *Buenrostro-Mendez*, 2026 WL 323330, at *4 (“Presence without admission deems the petitioners to be applicants for admission” that “require[s] their detention without eligibility for bond.”) (citing *Jennings*, 583 U.S. at 302); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (internal citation omitted; quoting *Jennings*, 583 U.S. at 299)). Still, the Department of Homeland Security (“DHS”) possesses sole discretionary 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.” *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

Section 1226, in turn, provides for arrest and detention “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). This section provides authority to detain aliens who do not fall under § 1225(b)(2) because they were previously admitted, but who are placed in removal proceedings under § 1229a for various reasons, including by violating their status, overstaying their visas, or being convicted of certain crimes. See 8 U.S.C. § 1227(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release an alien detained under § 1226(a) if the alien demonstrates that he “would not pose a danger to property or persons” and “is likely to appear for any future

proceeding.” 8 C.F.R. § 236.1(c)(8).

Argument²

A. Because Petitioner Is An “Applicant for Admission” Whose Detention Is Required by 8 U.S.C. § 1225, Petitioner’s Claims Are Meritless.

Petitioner’s detention is governed by 8 U.S.C. § 1225, which mandates that he remain in detention during the pendency of his removal proceedings, subject to DHS’s discretionary release on parole under 8 U.S.C. § 1182(d)(5)(A). 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 of this title.”

In the present case, Petitioner is an “applicant for admission” to the United States because he entered the country illegally and he has not demonstrated to an examining immigration officer that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *see also DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (alien “who tries to enter the country illegally is treated as an ‘applicant for admission’”). Petitioner cannot demonstrate that he is “clearly and beyond a doubt entitled to be admitted” because, as he is present in the United States without being admitted or paroled, he is inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). Accordingly, Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which mandates that he

² Respondent reasserts arguments here that this Court rejected in *Villa*, specifically a statutory-interpretation argument concerning the proper reading of 8 U.S.C. §§ 1225 and 1226. *See Villa v. Normand*, 5:25-cv-0089 (S.D. Ga.), Docs. 46 (R&R) at 4-23; 84 (Adoption Order) at 11-21. Respondent reasserts these arguments to preserve them for review in any subsequent proceeding.

“shall be” detained. See *Buenrostro-Mendez*, 2026 WL 323330, at *4-5; *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, at *3-5 (W.D. La. Oct. 31, 2024); *Chavez v. Noem*, 801 F. Supp. 3d 1133, 1140 (S.D. Cal. 2025) (“Petitioners do not contest that they are aliens present in the United States who have not been admitted. By the plain language of § 1225(a)(1), then, Petitioners are ‘applicants for admission’ and thus subject to the mandatory detention provisions of ‘applicants for admission’ under § 1225(b)(2)(A).” (cleaned up)); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025) (“Because petitioner [a Brazilian national who entered the country illegally in 2005] remains an applicant for admission, his detention is authorized so long as he is ‘not clearly and beyond doubt entitled to be admitted’ to the United States.”) (quoting 8 U.S.C. § 1225(b)(2)(A)).

Respondent’s reasoning is supported by Supreme Court decisional law. As explained in *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), applicants for admission fall into one of two categories: those covered by § 1225(b)(1), and those covered by § 1225(b)(2). Section 1225(b)(1) applies to aliens arriving in the United States who are initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(2), on the other hand, is “broader” and “serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here).” *Jennings*, 583 U.S. at 287 (emphasis added). Put another way, while § 1225(b)(1) applies to aliens “arriving” in the United States, § 1225(b)(2) applies to all “other” aliens who are applicants for admission—like

Petitioner. An alien does not lose his “applicant for admission” status as a matter of law simply because he failed to seek inspection and admission upon his immediate arrival in the United States. Moreover, the Supreme Court has confirmed that this statutory mandate for detention extends for the entirety of removal proceedings. *See Jennings*, 583 U.S. at 302 (“[Section] 1225(b)(2) ... mandates[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.”). Accordingly, Petitioner’s status as an “applicant for admission” mandates that he be detained during the pendency of his removal proceedings.

IV. Conclusion

For the reasons stated above, this Court should deny Petitioner’s 28 U.S.C. § 2241 petition.

In the event the Court adheres to its *Villa* ruling, Respondent requests a reasonable period of seven days to arrange an individualized bond hearing pursuant to 8 U.S.C. § 1226(a).

Respectfully submitted

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