

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SEHAJVEER SINGH GILL,

Petitioner,

V.

KRISTI NOEM, et al.,

Respondents.

CASE NO. 4:26-cv-00523

JUDGE BRIDGET MEEHAN BRENNAN

ANSWER, RETURN OF WRIT, AND BRIEF IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Sehajveer Singh Gill (“Petitioner”) seeks the grant of a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by Immigration and Customs Enforcement (“ICE”). Petitioner is a citizen of India. (Pet. ECF No. 1 PageID # 1.) He claims he unlawfully entered the United States on or about December 3, 2024, without being inspected and admitted or paroled. (*Id.* at PageID # 1-2.) Petitioner came to ICE’s attention during an investigation involving another subject threatening to shoot an ICE agent. (I-213 Record of Deportable/Inadmissible Alien, attached as Gov’t Ex. A.) Petitioner was a passenger when the FBI conducted a vehicle stop on a vehicle with license  as part of that investigation. (*Id.*) In the vehicle, agents found a Glock 17, a box of ammunition, and three magazines. (*Id.*)

After identifying Petitioner, ICE arrested him on January 15, 2025. (I-200 Warrant for Arrest of Alien, attached as Gov’t Ex. B.) He was issued a Notice to Appear (NTA) charging him as removable. (Notice to Appear, attached as Gov’t Ex. C.) At an immigration court hearing on February 26, 2026, Petitioner admitted the factual allegations and conceded removability as charged in the NTA. He then filed an I-589 Application for Asylum and for Withholding of Removal on February 28, 2026. An individual hearing on the merits of Petitioner’s application is scheduled for April 10, 2026. On February 10, 2026, Petitioner filed a request for bond with the Cleveland Immigration Court. (Motion for Bond, attached as Gov’t Ex. D.) On February 19, 2026, the Immigration Court denied his request for bond finding it lacked jurisdiction. (Order of Immigration Judge, attached as Gov’t Ex. E.) Petitioner has until March 23, 2026, to appeal this decision.

On March 3, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. On March 17, 2026, the Court ordered the government to show cause why the petition

should not be granted. (Order, ECF No. 4 PageID # 22.) The government has carefully reviewed this petition and determined that the legal issues presented concern the statutory authority for ICE's detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), whether Petitioner is entitled to a bond hearing, and if so, whether Petitioner must first exhaust his administrative remedies. The government acknowledges the Court's recent decision in *Gu v. Noem*, No. 3:26-cv-00036, 2026 WL 621356 (Order, ECF No. 8, PageID # 160, Mar. 5, 2026) and advises the Court that the facts presented in the instant case and the arguments of the government are not materially distinguishable from *Gu* for purposes of the Court's decision on the legal issue of which statutory provision authorizes Petitioner's detention. While reserving all rights, including the right to appeal, the government respectfully submits this abbreviated response in lieu of a formal responsive memorandum of law to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter.

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b), because he was present in the United States without being admitted or paroled. *Buenrostro-Mendez v. Bondi, et al.*, 166 F.4th 494 (5th Cir. Feb. 6, 2026)¹; *see also Higareda-Cano v. Noem*, No. 1:25-CV0225-H, 2026 WL 274495, *1 (N.D. Tex. Jan. 30, 2026); *Lopez v. Dir. Of Enforcement and Removal Operations*, ___ F. Supp. 3d ___, 2026 WL 261938, *1 (M.D. Fla. Jan. 26, 2026); *Phurtskhvanidze v. Field Off. Dir. of Enf't and Removal Operations*, No. 1:25-cv-827, 2026 WL 160833 (S.D. Ohio Jan. 21, 2026); *Yinxiao Chen v. Almodovar*, 25-CV09670, 2026 WL 100761, at *6–13 (S.D.N.Y. Jan. 14, 2026); *Lucero v. Field Office Dir. Of*

¹ The government acknowledges *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1060-63 (7th Cir. 2025) in which the Seventh Circuit held that the government was unlikely to succeed on its argument that § 1225(b)(2) applied to all unadmitted immigrants to the United States. However, this was not a ruling on the merits.

Enforcement and Removal Op., et al., Case No. 1:25-cv-823, 2025 WL 3718730, at *4 (S.D. Ohio Dec. 23, 2025); *Coronado v. Sec., Dept. of Homeland Sec., et al.*, Case No. 1:25-cv-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Xiaoquan Chen v. Almodovar*, 2025 WL 3484855, at *3–8 (S.D.N.Y. Dec. 4, 2025).

Applicants for admission, such as Petitioner, whom DHS places in § 1229a removal proceedings are subject to detention and ineligible for a custody redetermination hearing before an IJ. Specifically, aliens present without admission placed in 8 U.S.C. § 1229a removal proceedings are both applicants for admission as defined in 8 U.S.C. § 1225(a)(1) and aliens “seeking admission,” as contemplated in 8 U.S.C. § 1225(b)(2)(A). Such aliens are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and thus ineligible for a bond redetermination hearing.

No additional step is necessary for an applicant for admission to be seeking admission. *Buenrostro-Mendez*, 2026 WL 323330, *4 (“[A]n applicant for admission to the United States is ‘seeking admission’ to the same, regardless whether the person actively engages in further affirmative acts to gain admission.”). As a Court in the Southern District of Ohio recently explained, “the phrase ‘alien seeking admission’ in § 1225(b)(2)(A) is merely another way to refer to ‘applicant[s] for admission,’ and thus the same ‘deeming’ that makes someone an applicant for admission also makes them an ‘alien seeking admission,’ whether that is so as a matter of fact or not.” *Lucero v. Field Office Dir. Of Enforcement and Removal Op., et al.*, Case No. 1:25-cv-823, 2025 WL 3718730, at *1 (S.D. Ohio Dec. 23, 2025).

Furthermore, Section 1225(a) defines “applicant for admission” to encompass an alien who either “arrives in the United States” or who is “present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). And “admission” under the INA means not physical entry, but lawful entry after inspection by immigration authorities. 8 U.S.C. § 1101(a)(13)(A);

Mejia Olalde v. Noem, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025). Section 1225(a) provides that “[a]ll aliens . . . who are applicants for admission *or otherwise* seeking admission or readmission . . . shall be inspected.” 8 U.S.C. § 1225(a)(3) (emphasis added). The word “[o]therwise” means “in a different way or manner” *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster’s Third New International Dictionary 1598 (1971)); *see also Buenrostro-Mendez*, 2026 WL 323330, *5 (the use of “otherwise” means that “an ‘applicant for admission’ is necessarily someone who is ‘seeking admission.’”).

Given 8 U.S.C. § 1225 is the applicable detention authority for all applicants for admission—both arriving aliens and aliens present without admission alike, regardless of whether the alien was initially processed for expedited removal proceedings under 8 U.S.C. § 1225(b)(1) or placed directly into removal proceedings under 8 U.S.C. § 1229a—and “[b]oth [8 U.S.C. § 1225(b)(1) and (b)(2)] mandate detention . . . throughout the completion of applicable proceedings,” *Jennings v. Rodriguez*, 583 U.S. 281, 301–03 (2018), IJs do not have authority to redetermine the custody status of an alien present without admission.

However, the government acknowledges that this Court recently reached the opposite conclusion in *Gu v. Noem*, No. 3:26-cv-00036, 2026 WL 621356 (N.D. Ohio, Mar. 5, 2026). In *Gu*, this Court rejected the government’s arguments and held that, in these circumstances, “detention is under § 1226(a), not § 1225....” *Id.* at *13. On the legal issue of which statute governs Petitioner’s detention here—whether it is 8 U.S.C. § 1226(a), or 8 U.S.C. § 1225(b)—the government acknowledges that this Court’s decision in *Gu* would control the result here if the Court adheres to that decision, since the facts are not materially distinguishable for purposes of

the Court's decision on the legal issue of which statutory provision authorizes Petitioner's detention.

Thus, while the government does not consent to issuance of the writ and reserves all rights, including the right to appeal, and to conserve judicial and party resources while expediting the Court's consideration of this case, the government submits this abbreviated response setting forth its position that the Petitioner is lawfully detained. Finally, the government believes that this matter can be decided without a hearing. If, however, the Court determines that a hearing would be helpful, the government will attend and present Respondents' position.

Respectfully submitted,

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