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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IAN TRANDIN,

Petitioner,

v.

CHRISTOPHER LAROSE, *et al.*,

Respondents.

Case No.: 3:26-cv-03772-DMS-AHG

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

INTRODUCTION

This is an action for Petition for Writ of Habeas Corpus. ECF No. 1. Petitioner seeks declaratory and injunctive relief challenging both his current detention by United States Immigration and Customs Enforcement (ICE), as well as the procedural sufficiency of the processing of his claims for asylum, withholding of removal and protection under the Convention Against Torture (CAT). Id. Specifically, Petitioner

1 assert that he received a procedurally inadequate fear screening process. Id. Petitioner
2 seeks a declaration that the fear screening process he received violates the Fifth
3 Amendment to the United States Constitution and the Administrative Procedure Act,
4 injunctive relief staying his removal from the United States, and an order directing his
5 release from detention or a bond hearing. ECF No. 1, Page ID 19. Respondents oppose
6 the Petition because Petitioner is properly detained pursuant to 8 U.S.C. § 1225(b).
7 Respondents further oppose Petitioner's challenge to the procedural adequacy of the
8 fear screening process as not being the proper subject of a habeas claim under 8 U.S.C.
9 § 1252 and further because the claim is moot.

13 STATEMENT OF FACTS

14 Petitioner is a native and citizen of Russia. ECF No. 1, ¶ 2. Petitioner states that
15 he entered the United States on or about May 5, 2026, and was subsequently
16 apprehended. ECF No. 1, ¶¶ 26-27. Petitioner does not assert that his entry into the
17 United States was authorized. Rather, he admits that he was twice denied a visitor visa,
18 but that he entered because of fear of persecution and torture. ECF No. 1, ¶¶ 25-26.
19 Prior to his May 2026 entry, Petitioner asserts that he "first entered the United States in
20 or about 2023 and resided here for approximately a year and a half. He was placed in
21 removal proceedings and was granted voluntary departure in June 2024." ECF 1, ¶ 24.

25 Petitioner asserts that he was referred for fear screening based upon expressed
26 fear of persecution and torture. ECF No. 1, ¶ 28. The fear screening process resulted in
27 a negative fear determination by an asylum officer which was affirmed by an
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1 Immigration Judge (IJ). ECF No. 1, ¶¶ 29-30. Petitioner asserts that the fear screening
2 proceedings did not provide adequate opportunity to obtain counsel and present
3 evidence in support of his claims. ECF No. 1, ¶¶ 31-32. Petitioner filed this action on
4 June 29, 2026.
5

6 After the filing of the Petition, the government determined that Petitioner should
7 be referred for additional fear screening. The parties agreed to an extension for the
8 government to file its return (ECF Nos. 5, 6) based upon this procedural development.
9 Upon information and belief, the additional interview was conducted on July 16, 2026.
10 As of the time of filing of this return, undersigned counsel has not yet been able to
11 confirm the results of the credible fear interview.
12

13 ARGUMENT

14 A. Overview of Statutory Immigration Civil Detention Authority

15
16 The statutory authorization for civil detention of noncitizens present in the United
17 States is governed by 8 U.S.C. §§ 1225, 1226, and 1231. “Where an alien falls within
18 this statutory scheme can affect whether his detention is mandatory or discretionary, as
19 well as the kind of review process available to him if he wishes to contest the necessity
20 of his detention.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).
21

22 Section 1225 applies to noncitizens who “arrive or are “present” in the United
23 States but have not been admitted. See § 1225(a)(1). “Applicants for admission fall into
24 one of two categories, those covered by § 1225(b)(1) and those covered by
25 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section
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1 1225(b)(1) applies to noncitizens who are “initially determined to be inadmissible due
2 to fraud, misrepresentation, or lack of valid documentation.” *Id.* (citing §
3 1225(b)(1)(A)(i)). The *Jennings* Court found that Section 1225(b)(2) is broader and
4 “serves as the catchall provision that applies to all applicants for admission not covered
5 by § 1225(b)(1).” *Id.*

6
7 Normally, noncitizens covered by § 1225(b)(1) are subject to an expedited
8 removal process that does not include a hearing before an Immigration Judge or review
9 of the removal order. *See* § 1225(b)(1)(A)(i). However, if a noncitizen indicates either
10 an intention to apply for asylum or a fear of persecution, the noncitizen is referred for
11 an asylum officer interview. *See* § 1225(b)(1)(A)(ii). *See also* 8 C.F.R. § 208.30(d). If
12 the asylum officer determines that the noncitizen has a credible fear of persecution, the
13 noncitizen “shall be detained for further consideration of the application for asylum”
14 *See* § 1225(b)(1)(B)(ii).

15
16 The only procedure for a noncitizen to be released pending a decision on an
17 asylum application is temporary parole for urgent humanitarian reasons or significant
18 public benefit. *See* 8 U.S.C. § 1182(d)(5)(A). *See also* 8 C.F.R. §§ 212.5(b), 235.3.
19 Section 1225 does not impose “any limit on the length of detention, nor does it authorize
20 bond hearings or release on bond. *Jennings*, 583 U.S. at 296-301. *See also Department*
21 *of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 111 (2020) (“Whether an
22 applicant who raises an asylum claim receives full or only expedited review, the
23 applicant is not entitled to immediate release. Applicants shall be detained pending a
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1 final determination of credible fear of persecution and, if found not to have such a fear,
2 until removed. § 1225(b)(1)(B)(iii)(IV). Applicants who are found to have a credible
3 fear may also be detained pending further consideration of their asylum applications. §
4 1225(b)(1)(B)(ii)" (Internal quotation marks omitted).
5

6 B. Petitioner's Detention is Mandated by 8 U.S.C. § 1225(b).
7

8 In this case, the petition effectively concedes that Petitioner entered the United
9 States without authorization, after having twice been denied a visitor visa, for the
10 purpose of seeking asylum, withholding of removal and CAT protection. Indeed, the
11 Petition acknowledges that Petitioner was previously placed in removal proceedings
12 and voluntarily departed the United States in June 2024. ECF 1, ¶ 24. The Petition
13 further acknowledges that Petitioner was apprehended following entry. ECF 1, ¶ 27.¹
14 Further, the Petition does not assert that Petitioner has been granted parole.
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17 As such, Petitioner is an applicant for admission for purposes of § 1225(b).
18 Under the Supreme Court's holding in *Jennings*, detention is statutorily mandated for
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20 ¹ The Petition indicates that Petitioner entered the United States on May 5, 2026, and
21 was "apprehended and detained" on or about May 12, 2026. ECF 1 No. ¶ 27. Upon
22 information and belief from review of available documents Petitioner was apprehended
23 on May 5, 2026, one mile west of the Tecate, California Port of Entry and approximately
24 500 meters North of the U.S and Mexico international boundary. Respondents don't
25 consider this possible factual issue sufficient to impact Petitioner's status as an applicant
26 for admission because even under his pleadings he would have been apprehended within
27 14 days of entry and within 100 air miles of the United States border with Mexico. *See*
28 *Thuraissigiam*, 591 U.S. at 109, n.2 (2020) (noting aliens treated as applicants for
admission if they were "encountered within 14 days of entry without inspection and
within 100 air miles of any U. S. international land border" (*citing* 69 Fed. Reg. 48879
(2004))).

1 applicants for admission falling under §1225(b)(1) or § 1225(b)(2). *See Id.* at 297
2 (“Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants
3 for admission until certain proceedings have concluded.”).

4
5 As an applicant for admission who is currently pursuing the fear screening
6 process, Respondents assert that Petitioner's current detention is both mandated and
7 authorized by § 1225(b)(1). Regardless, § 1225(b)(2) serves as the catch-all detention
8 provision for applicants for admission who don't fall under § 1225(b)(1). *Jennings*,
9 *supra*. As such, under either subsection of § 1225(b) -- Petitioner is subject to
10 mandatory detention. Petitioner's request for release, or for a bond hearing, should
11 therefore be denied because he is an applicant for admission whose removal
12 proceedings are not complete.
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16 C. Petitioner's Challenge to the Initial Fear Screening Process is Outside the Scope of
17 a Proper Habeas Claim and is Otherwise Moot

18 Under 8 U.S.C. § 1252(b)(9) “[j]udicial review of all questions of law and fact .
19 . . arising from any action taken or proceeding brought to remove an alien from the
20 United States under this subchapter shall be available only in judicial review of a final
21 order under this section.” Judicial review of a final order is available only through “a
22 petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5).
23 *Cf. Thuraissigiam*, 591 U.S. at 114 (applying § 1252(e)(2) in rejecting habeas challenge
24 where noncitizen alleged “immigration officials deprived him of ‘a meaningful
25 opportunity to establish his claims’ and violated credible-fear procedures by failing to
26 probe past his denial of the facts necessary for asylum.”). Petitioner's challenge to the
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1 adequacy of the initial fear screening process is thus not a proper subject of a habeas
2 action, with such review lying only from judicial review of a final order of removal in
3 the circuit court of appeals.
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5 Likewise, as noted above, Petitioner has been referred for additional fear
6 screening. His challenge to the earlier fear screening process is therefore moot.
7 “Mootness can be characterized as the doctrine of standing set in a time frame: The
8 requisite personal interest that must exist at the commencement of the litigation
9 (standing) must continue throughout its existence (mootness).” *Cook Inlet Treaty Tribes*
10 *v. Shalala*, 166 F.3d 986, 989 (9th Cir.1999) (Internal quotation marks omitted). A
11 federal court has no jurisdiction to hear a case where no actual or live controversy
12 exists.” *Id.* Referral of Petitioner for credible fear screening moots his challenges to the
13 initial screening he received.
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16

17 CONCLUSION

18 For the reasons stated herein, Respondents respectfully request that the Court
19 deny the Petitioner’s requests for relief on the merits.
20

21 Dated: July 20, 2026

Respectfully submitted,

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