

District Judge Richard A. Jones
Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HARRINSON JOSE OSUNA BENITEZ,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02535-RAJ-BAT

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
December 29, 2025

Petitioner Harrison Jose Osuna Benitez is detained by United States Immigration and Customs Enforcement (ICE) pursuant to Section 235 of the Immigration and Nationality Act (INA) (8 U.S.C. § 1225(b)(1)), during the pendency of his removal proceedings. In order to aid the Court in its consideration of the Petition, Respondents submit this Return memorandum with an explanation of the relevant detention authorities and factual background relevant here.

I. DETENTION AUTHORITIES

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.” *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims

1 and expeditiously removing the aliens making such claims from the country.”). Section 1225
2 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in
3 the United States who [have] not been admitted” or noncitizens “who arrive[] in the United
4 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for
5 admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by
6 § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S.
7 281, 287 (2018).

8 Expedited removal proceedings under Section 1225(b)(1) include additional procedures if
9 a noncitizen indicates an intention to apply for asylum or expresses a fear of persecution, torture,
10 or return to the noncitizen’s country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). If
11 the asylum officer or immigration judge does not find a credible fear, the noncitizen is “removed
12 from the United States without further hearing or review.” 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I),
13 (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum
14 officer or immigration judge finds a credible fear, the noncitizen is generally placed in full removal
15 proceedings under 8 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8 C.F.R. §
16 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

17 The sole means of release is “temporary parole from § 1225(b) detention ‘for urgent
18 humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

19 II. FACTUAL BACKGROUND

20 Petitioner is a 25-year-old native and citizen of Venezuela who applied for admission to
21 the United States on or about September 27, 2024, at the Hidalgo, Texas port of entry. *See*
22 Declaration of Rita J. Soraghan (Soraghan Decl.), ¶ 4; Declaration of Kristen R. Vogel (Vogel
23 Decl.), Exh. A, Form I-213 dated September 27, 2024. While Petitioner arrived with a scheduled
24

1 CBP One appointment¹, he did not have a valid entry document as required for admission as an
 2 immigrant and DHS determined Petitioner was inadmissible under section 212(a)(7)(A)(i) of the
 3 INA (8 U.S.C. § 1182(a)(7)(A)(i)). Soraghan Decl., ¶ 5; Exh. A. to Vogel Decl, pg. 2. He was
 4 issued a Notice to Appear (NTA) regarding his inadmissibility and paroled into the United States
 5 for INA 240 removal proceedings. Soraghan Decl., ¶ 5; Exh. B to Vogel Decl., NTA.

6 On November 17, 2025, Petitioner reported to his local ICE office in Portland, Oregon for
 7 his scheduled check in appointment. Soraghan Decl., ¶ 6. At that time, a custody redetermination
 8 was conducted. *Id.* Per ICE Enforcement and Removal Operations records, ICE believes Petitioner
 9 to be a threat to public safety, due to his possible gang affiliation to [REDACTED]

10 [REDACTED]
 11 [REDACTED] the ICE Assistant Field Office
 12 Director concurred with local Portland officers that Petitioner met the criteria to be taken into
 13 custody. *Id.*, ¶ 7; Exh. C to Vogel Decl., Form I-213 dated November 17, 2025. Petitioner was
 14 taken into custody without incident at approximately 9:40 a.m. and transported to the Northwest
 15 ICE Processing Center that same day. *Id.*, ¶ 8. Petitioner appeared before an Immigration Judge in
 16 the Tacoma, Washington Immigration Court for a master calendar hearing on December 18, 2025.
 17 *Id.*, ¶ 9.

18 ICE is mandatorily detaining Petitioner under INA 235 because he applied for admission
 19 at a port of entry and is therefore an arriving alien. *Id.*, ¶ 10; *see also* 8 C.F.R. § 1001.1(q)
 20 (“Arriving alien” is defined as “an applicant for admission coming or attempting to come into the
 21

22 ¹ “CBP One was a mobile application launched by the Department of Homeland Security (DHS) in October 2020.”
 23 *Coal. For Human Immigrant Rts. v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *2 n.2 (D.D.C. Aug. 1,
 24 2015) (citation omitted). “It enabled noncitizens to book an appointment to appear for inspection at a port of entry,
 submit information in advance, and potentially obtain parole or admission into the country.” *Id.* (citation omitted).
 This mobile application is no longer functional as of January 20, 2025. *See* <https://www.cbp.gov/newsroom/national-media-release/cbp-removes-scheduling-functionality-cbp-one-app> (last accessed Dec. 19, 2025).

1 United States at a port-of-entry” and “remains an arriving alien even if paroled pursuant to section
2 212(d)(5) of the Act, and even after any such parole is terminated or revoked.”).

3 DATED this 19th day of December, 2025.

4 Respectfully submitted,

5 CHARLES NEIL FLOYD
6 United States Attorney

7 s/ Kristen R. Vogel

8 KRISTEN R. VOGEL, NY No. 5195664

9 Assistant United States Attorney

10 United States Attorney's Office

11 Western District of Washington

12 700 Stewart Street, Suite 5220

13 Seattle, Washington 98101-1271

14 Phone: 206-553-7970

15 Fax: 206-553-4073

16 Email: kristen.vogel@usdoj.gov

17 *Attorneys for Federal Respondents*

18 I certify that this memorandum contains 850
19 words, in compliance with the Local Civil Rules.