UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Lusvin Samuel CORDOVA IXTABALAN, A[redacted] Petitioner, v. JAMAL L. JAMISON, in his official capacity as the Facility Administrator of the Philadelphia Federal Processing Center; et al.; Respondents.	Case No. 2:26-cv-00956

PETITIONER'S TRAVERSE

On February 24, 2026, this Court issued an order inviting Petitioner to file a reply brief addressing whether (1) Petitioner is an "applicant for admission" that is "seeking admission," and (2) Petitioner must be detained under 8 U.S.C. § 1225(b)(2)(A), to be filed on or before February 27, 2026. Petitioner answers both questions in the negative; Petitioner has been present in the United States for at least two years; as such he is no longer "seeking admission" as has been defined by numerous courts in other proceedings and is therefore not subject to § 1225(b)(2)(A).

In their opposition brief, Respondents contend that this matter is distinct from the line of cases involving *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as it believes the instant case is more appropriately categorized under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). In distinguishing between these two cases, the Respondents' argument roughly divides cases into those where a noncitizen is

encountered at the border, released, and later re-detained (*Q. Li*), and those where a noncitizen is not encountered at the border but is later detained in the interior of the country (*Hurtado*). This is a distinction without a difference; in either case, Respondents assert that both types of noncitizens are subject to mandatory detention under 8 U.S.C. § 1225. This lack of distinction is reflected in many, if not all, of the cases in this and other judicial districts where the court has held that § 1225 does not apply to a person detained in the interior of the country, regardless of whether they were previously encountered at the border or not. In fact, to the best of Petitioner's knowledge, every case in this judicial district on this issue has been resolved in favor of the Petitioner. *See, e.g., Baskaev v. Jamison,* No. 2:26-cv-01053 (E.D. Pa. February 23, 2026); *Traore v. Noem*, No. 2:26-cv-00851 (E.D. Pa. February 17, 2026); *Garcia Zambrano v. Jamison*, No. 2:26-cv-0760 (E.D. Pa. February 10, 2026); *Buele Morocho v. Jamison*, No. 2:25-cv-05930 (E.D. Pa. November 26, 2025); *Patel v. McShane,* No. 25-cv-5975 (E.D. Pa. Nov. 20, 2025); *Ndiaye v. Jamison*, No. 25-cv-6007 (E.D. Pa. Nov. 19, 2025); *Demirel v. Fed. Det. Ctr. Phila*., No. 25-cv-5488 (E.D. Pa. Nov. 18, 2025); *Kashranov v. Jamison*, No. 25-cv-5555 (E.D. Pa. Nov. 14, 2025); and *Cantu-Cortes v. O'Neill*, No. 25-cv-6338 (E.D. Pa. Nov. 13, 2025).

In a number of these cases, petitioners had been encountered at or near the border and were later detained, though some were not encountered after entry

without inspection until they were detained in the interior of the country. What mattered to the courts in these cases is the language of § 1225, not the distinctions drawn by the BIA in *Q. Li* and *Yajure Hurtado*, because in either case the government is arguing for mandatory detention under § 1225. The two BIA cases are merely the procedural vehicles meant to capture all cases and drive to the result of mandatory detention for anyone who entered without inspection.

As many courts have determined, these cases are issues of pure statutory interpretation. As such, this Court must "begin 'with the statutory text and proceed from the understanding that unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning.'" *Kashranov* at *11 (slip op.) (*citing Sebelius v. Cloer*, 559 U.S. 369, 376 (2013)). If Congress defines a term in the statute, the court must use that definition. *Id.* (*citing Babbitt v. Sweet Home Chapter of Cmtys. for a Great Oregon*, 515 U.S. 687, 697 n.10 (1995)). If a term is not defined, the court may consider dictionary definitions of the term's meaning at the time of enactment. *Id.* (*citing Tanzin v. Tanvir*, 592 U.S. 43, 48-49 (2020)).

Section 1225(b)(2)(A) states,

> "Subject to subparagraphs (B) and (C), 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."

8 U.S.C. § 1225(b)(2)(A). The operative phrase that is key to solving this dispute is "seeking admission." 8 U.S.C. § 110(13)(A) defines the terms "admission" and "admitted" to mean, "with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." The term seeking is not defined in the statute.

Respondents argue that these provisions, which were modified by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), were intended to remove a discrepancy in prior versions of the statute between those who enter at port of entry, who could not seek bond, and those who evade detection and are later detained in the interior of the country, who could be released on bond. Indeed, this is the logic used by the Fifth Circuit to uphold the Respondents position in *Buenrostro-Mendez v. Bondi, et al.*, No. 25-40701 (5th Cir. February 6, 2026) (slip op.), the only circuit court case to date to reach the merits of this issue. Though the Fifth Circuit discussed and dismissed many of Petitioner's arguments, the decision is poorly supported and should not be persuasive to this court.

In their decision, the Fifth Circuit cites a Congressional report on IIRAIRA, House Report 104-469, for the proposition that IIRAIRA was as an attempt to "reduce" an apparent "incongruity" between noncitizens who arrive at a port of entry, who could not seek bond, and those who are found in the interior after having

crossed into the country undetected, who could. *Buenrostro-Mendez,* at *3. While House Report 104-469 does include vague references to various "equities" and "privileges" that were created by the prior statutory scheme ("[I]llegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection."), it does not explicitly say what those equities or privileges were, nor does it say exactly how the changes to the statue address those problems. See H.R. Rep. No. 104-469, pt. 1, at 225 (1996). This broad statement does little to advance the proposition that Congress intended mandatory detention without bond in cases like these.

If Congress had indeed intended mandatory detention for potentially millions of noncitizens in the United States, simply put, they would have made it clear they were doing so. As the late Justice Antonin Scalia famously explained, "Congress . . . does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes." *Whitman v. American Trucking Assns., Inc.*, 531 US 457, 469 (2001). If the Fifth Circuit's explanation is correct, one would expect that the House Report would mention a clear intention that *all* applicants for admission were to be held without bond for the duration of their proceedings. However, there is *no* clear expression of this intent, or anything even close to it included in the House Report. Instead, the

report states that the intent was to create "more stringent standards for the release of aliens" from detention "during and after removal proceedings." H.R. Rep. No. 104-469, at 12. This would imply that release *remains* an option. Further, there is no single statement of intent to revoke the IJ's authority to hear bond matters and to grant bond alongside removal proceedings or to adjust the IJ's jurisdiction in any way that would be relevant to this legal dispute. Simply put, "[i]f Congress had wanted the provision to have th[e] effect [urged by the government], it could have said so in words far simpler than those that it wrote." *Biden v. Texas*, 597 U.S. 785, 798 (2022).

Indeed, the statutory definition of admission listed in 8 U.S.C. § 110(13)(A) cannot be reconciled with this argument. When taking that definition into account, § 1225(b)(2)(A) effectively states that in the case of an applicant for admission, if an examining officer determines that a noncitizen who is seeking "lawful entry . . .into the United States after inspection and authorization by an immigration officer," and that noncitizen is not clearly and beyond a doubt entitled to be allowed to enter after inspection an authorization by an immigration officer, then that person "shall be detained for a proceeding."

Regardless of the assertions by Respondents or the Fifth Circuit about Congress's intent behind changing the operative point from entry to admission, Congress nevertheless left the direction about who must be detained contingent on

whether the person is "seeking" lawful *entry*. Congress could have defined the term admission based on, for example, *presence* in the country but it didn't do so. For that matter, Congress also could have included the words "mandatory detention" anywhere in subsection n (b)(2)(A), as they did in § 1225(b)(1)(B)(iii)(IV) (a subsection titled "Mandatory Detention"), but it didn't. The Fifth Circuit did not address these critical arguments.

Numerous courts have arrived at the same result after holding that the word "seeking" requires active, intentional behavior, which does not apply to a person who is already present in the country. The idea that a noncitizen must be engaged in the active pursuit of legal *entry* is supported by the rest of the INA. First, broadly speaking, § 1225 "appears to be tethered more closely to the border" while § 1226 "appears to be tethered more closely to the interior." *See, generally, Del Cid v. Bondi*, No. 3:2025cv00304, ECF 18 (W.D. Pa. 2025). This is consistent with the rest of the INA, which shows a clear intent to distinguish those physically present for more than two years from those with less presence or those who are actively "arriving" in the United States. *Cabreja Bueno* at *6 (*citing Dep't of Homeland Sec. v. Thuraissigiam,* 591 U.S. 130, 108-09 (2020)).

Further, the INA clearly divides the experience of the applicant for admission into several distinction sections, or as the INA headings describe the process:

"Inspection, Apprehension, Examination, [Admission][1], and Removal." There is a clear process delineated; initial encounters at the border (Section 1225) or arrests in the interior (Section 1226), the requirement that noncitizens be inspected for admissibility (Section 1225), their detention and potential for release mid-process (Section 1226), the process for judging their removability in court (Section 1229), and their post-order detention and removal from the country (Section 1231). Respondents ask the Court to ignore the statutory scheme in favor of an argument that hinges on the single word, "shall."

This argument arises out of *Jennings v. Rodriguez*, 583 U.S. 281, 138 S.Ct. 830 (2018), wherein the Supreme Court held[2] that there is no inherent statutory authority mandating bond for those held under § 1225(b)(2), and that the language should be read as "mandatory for a proceeding," which it took to mean the *entire* removal proceeding. *Jennings* at 834. However, *Jennings* did not address *which* INA provision applies to *who*, and Petitioner's position is consistent with *Jennings.*

[1] Originally listed as "Exclusion," edited to confirm with current statutory practice in referring to admission instead of exclusion.

[2] To the extent that *Jennings* might apply to this case, the plurality opinion should be read narrowly. The ruling was limited to statutory construction of the phrase "shall detain for a proceeding," and the Ninth Circuit's erroneous use of the constitutional-avoidance doctrine. The case did not address whether the provision offends the U.S. Constitution, which is an issue explicitly raised in this case. The case also did not address the applicability of the major questions doctrine, which is also implicated by the alleged mandatory detention of potentially millions of noncitizens.

First, *Jennings* equivocates on exactly who falls under its rubric. The Court wrote, "Congress has authorized immigration officials to detain *some classes* of aliens during the course of certain immigration proceedings." *Jennings* at 836 (emphasis added). Further, the Court writes of §1225(b)(1), "Section 1225(b)(1) also applies to *certain other aliens* designated by the Attorney General in his discretion." Jennings at 837 (emphasis added). Even when dealing with what it calls the "catch all" provision for other applicants for admission, §1225(b)(2), the Court wrote, "[b]oth § 1225(b)(1) and § 1225(b)(2) authorize the detention of *certain* aliens." *Id.*

Second, *Jennings* retains the border/interior distinction. The decision notes that "§ 1225(b) of Title 8 of the U.S. Code authorizes the detention of certain aliens *seeking to enter the country*." *Jennings* at 833 (emphasis added). Conversely, the decision states, regarding § 1226, that "[t]he Government is also authorized to detain certain aliens *already in the country*." *Id.* (emphasis added). This distinction is consistent with decades of agency practice.

It is important to note that even where a noncitizen "shall" be detained under § 1225(b)(2), *Jennings* recognizes that the Respondents retain the discretionary authority to release applicants for admission "for urgent humanitarian reasons or significant public benefit." *Id.* (*citing* § 1182(d)(5)(A)). This admission is significant; parole is inconsistent with the Respondents understanding of its detention duties and the limitations on its authority in the INA. *Jennings*

notwithstanding, a detention cannot be said to be truly mandatory under any reasonable definition where it is subject to discretionary release authority. Respondents' reading of the statutory scheme would prohibit IJs from holding bond hearings, but would allow DHS to release the exact same person under § 1182(d)(5) for the "humanitarian" reason of not wanting to detain an applicant for admission who is not a danger to the community and does not pose a flight risk, as doing so furthers the public interest of only detaining those that need to be detained for a specific reason. This possibility is not eliminated by Respondents' interpretation of the statute, and is clearly at odds with their entire argument, as it would frustrate Congress' alleged purposes as described by Respondents and the Fifth Circuit. Respondents' position cannot be reconciled with these arguments. As the dissenting opinion in *Buenrostro-Mendez* explains,

> The Congress that passed IIRIRA would be surprised to learn it had also required the detention without bond of two million people. For almost thirty years there was no sign anyone thought it had done so, and nothing in the congressional record or the history of the statute's enforcement suggests that it did. Nonetheless, the government today asserts the authority and mandate to detain millions of noncitizens in the interior, some of them present here for decades, on the same terms as if they were apprehended at the border. No matter that this newly discovered mandate arrives without historical precedent, and in the teeth of one of the core distinctions of immigration law. The overwhelming majority of courts in this circuit and elsewhere have recognized that the government's position is totally unsupported. Undeterred, the majority and the government distort the statutory text,

> abstract it from its context and history, ignore the Supreme Court's clearly stated understanding of the statutory scheme, and wave away the agency's previous failure to detain millions of noncitizens as if it were a rounding error.
>
> And for what? The majority stakes the largest detention initiative in American history on the possibility that "seeking admission" is like being an "applicant for admission," in a statute that has never been applied in this way, based on little more than an apparent conviction that Congress *must have* wanted these noncitizens detained—some of them the spouses, mothers, fathers, and grandparents of American citizens. Straining at a gnat, the majority swallows a camel. I dissent.

Buenrostro-Mendez at *22-23 (footnote omitted).

Returning to the facts of this case, the fact pattern alleged above is essentially what happened to Petitioner. He was encountered at the border, detained, and released, only to be re-detained later under the new policy of "mandatory" detention. The government did not consider him a threat or a flight risk when it initially released him, it is hard to see how those facts have changed. As it stands, Petitioner is not a flight risk or a danger to the community; he has proven this over the last few years, having cooperated with all of the terms of his release during that time.

"Liberty from bodily restraint always has been recognized as the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Youngberg v. Romeo*, 457 U.S. 307 (1982) (citing *Greenholtz* v. *Nebraska Penal Inmates,* 442 U.S. 1, 18 (1979) (POWELL, J., concurring in part and dissenting in part)). As it stands, the Respondents have infringed upon Petitioner's physical

liberty. However, Petitioner poses no threat to the community and no risk of flight; his confinement is therefore not rationally related to any recognized Government interest. As such, even if the Court is persuaded by the Respondents' argument, it must be tempered by the facts of this case, and this Court should order his release or in the alternative order Respondents to give him a bond hearing.

WHEREFORE, Petitioner asks this Court to grant his habeas petition.

Dated: 02/27/2026

Respectfully submitted,

s/ Bridget Cambria
Bridget Cambria, Esq. (PA 205271)
Cambria and Kline PC
532 Walnut Street
Reading, PA 19601
Telephone: (484) 926-2014
bridget.cambria@cambriaklinelaw.com

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2026, a true and correct copy of Petitioner's Traverse was filed via the Court's CM/ECF filing system and will be served on all Defendants in accordance with the Federal Rules of Civil Procedure.

Dated: 02/27/2026

Respectfully submitted,

s/ Bridget Cambria
Bridget Cambria, Esq. (PA 205271)
Cambria and Kline PC
532 Walnut Street
Reading, PA 19601
Telephone: (484) 926-2014
bridget.cambria@cambriaklinelaw.com