ARRIVING ALIENS AND BOND

INA 235(2): . . . 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 . . .

IJ cannot set an initial bond for an arriving alien, however following a positive credible fear determination, an asylum applicant is eligible for a custody redetermination hearing before an IJ unless the alien is a member of any of the listed classes of aliens who are specifically excluded from the custody jurisdiction of IJ. *In Re XK*, 23 I&N 731 (BIA 2005)

Arriving Alien Definition

INA 235(a)(1): An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

8 C.F.R. 1.1(q): However, an arriving alien who was paroled into the United States before April 1, 1997, or who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States, will not be treated, solely by reason of that grant of parole, as an arriving alien under section 235(b)(1)(A)(i) of the Act.

INA 101(13) (A) The terms "admission" and "admitted" mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer. (B) An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been admitted. (C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien-

(i) has abandoned or relinquished that status,
(ii) has been absent from the United States for a continuous period in excess of 180 days,
(iii) has engaged in illegal activity after having departed the United States,
(iv) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings,
(v) has committed an offense identified in section 212(a)(2), unless since such offense the alien has been granted relief under section 212(h) or 240A(a), or
(vi) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.