



with certain criminal charges or convictions (emphasis added)); *see also Demore v. Kim*, 538 U.S. 510, 531 (2003) (held that § 1226(c) “is a constitutionally permissible part of the process” for arresting, detaining, and deporting inadmissible foreign nationals); *see also Gonzalez v. O’Connell*, 355 F.3d 1010, 1019–21 (7th Cir. 2004) (similar).

In a similar vein, the recently enacted Laken Riley Act “require[s] the Secretary of Homeland Security to take into custody aliens who *have been charged* in the United States with theft” — including any foreign national “charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.” Pub. Law No. 119-1 (emphasis added regarding Congress’s explicit use of the past tense so as to rebut the presumption against retroactivity in civil statutes); *see also* § 1226(c)(1)(E)(ii) (which is a portion of the INA amended by the Laken Riley Act). That new law is relevant here because the petitioner has been arrested in the recent past for crimes involving both “bodily injury to another person” and “larceny.” *See* Respondents’ Exhibit 1.

**(2) Citations to the Illinois TRUST Act that prompted the transfer of the Petitioner from Illinois to the Eastern District of Wisconsin.**

The Illinois TRUST Act was enacted in 2017 to prohibit Illinois law enforcement officials from participating in federal civil immigration enforcement. *See* TRUST Act, 5 Ill. Comp. Stat. 805/1 *et seq.* (2017). The TRUST Act was amended in 2021 by the Way Forward Act, to, among other things, prevent state and local law enforcement officials from entering into agreements to detain individuals for federal civil immigration violations. *See id.* at 805/15(g). In combination, the Way Forward Act and the TRUST Act limit cooperation with federal enforcement in numerous ways. For example, and as is most relevant to the court’s inquiry, Section 15 of the TRUST Act

prohibits “[a] law enforcement agency or law enforcement official” from “detain[ing] or continu[ing] to detain any individual solely on the basis of any immigration detainer or civil immigration warrant or otherwise comply with an immigration detainer or civil immigration warrant.” *Id.* at 805/15(a). Under this section, unless presented with a federal criminal warrant, or otherwise required by federal law, Illinois state law enforcement officials may not “assist in any capacity with an immigration agent’s enforcement operations.” *Id.* at 805/15(h).

**(3) The basis for the government’s position that the Petitioner can be transferred again without permission of a court.**

8 U.S.C. § 1231(g) provides that the DHS Secretary “shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal.” As another court has observed, “Congress has squarely placed the responsibility of determining where aliens are to be detained within the sound discretion of” DHS. *Avramenkov v. INS*, 99 F. Supp. 2d 210, 213 (D. Conn. 2000) (discussing § 1231(g)(1)). In other words, the agency’s “discretionary power to transfer aliens from one locale to another, as [the DHS Secretary] deems appropriate, arises from [§ 1231(g)’s] statutory language.” *Id.*

Moreover, multiple decisions interpreting this provision have concluded that “court[s] ha[ve] no jurisdiction to review the [Secretary’s] decision to transfer an alien from one locale to another to commence removal proceedings. *Id.* at 214 (citing *Chavez v. INS*, 55 F. Supp. 2d 555, 557 (W.D. La. 1999)); see also *Van Dinh v. Reno*, 197 F.3d 427, 434 (10th Cir. 1999) (concluding that 8 U.S.C. § 1252(a)(2)(B)(ii), in combination with § 1231(g), bars judicial review of the discretionary decision to transfer a foreign national from one correctional facility to another); *Salazar v. Dubois*, No. 17 Civ. 2186, 2017 WL 4045304, at \*1 (S.D.N.Y. Sept. 11, 2017) (“[W]ithout a showing that a transfer would infringe on Salazar’s constitutional rights, this Court does not have authority to issue an order to change or keep Salazar at any particular location.”);

*Guangzu Zheng v. Decker*, No. 14 Civ. 4663, 2014 WL 7190993, at \*15–16 (S.D.N.Y. Dec. 12, 2014) (denying petitioner’s request that the court order U.S. Immigration and Customs Enforcement (“ICE”) not to transfer him to another jurisdiction).<sup>3</sup>

Respectfully submitted,

MORRIS PASQUAL  
Acting United States Attorney

By: s/ Joshua S. Press

JOSHUA S. PRESS  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 886-7625  
joshua.press@usdoj.gov

CRAIG A. OSWALD  
Assistant United States Attorney

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<sup>3</sup> According to ICE, petitioner was transferred today (that is, February 14, 2025) from the Waukesha County Jail to the Dodge Correctional Institution in Waupun, Wisconsin. Further, the DHS decision to detain petitioner in Wisconsin was made before this action was even filed. *See* Dkt. 8-1, Declaration of Joseph Chavez, at ¶ 10–11.