

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

JORGE JUAREZ ALFREDO,

Plaintiff,

v.

Case No. 2:25-cv-00610-SPC-KCD

WARDEN, GLADES COUNTY
DETENTION CENTER,

Defendant.

_____ /

RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS

Jorge Juarez Alfredo petitions for a writ of habeas corpus arguing that this Court should order his release pending a removal decision. Alfredo contends he has not been provided a bond hearing or other appearance before an Immigration Judge with the assistance of counsel. Alfredo's petition should be denied. Title 8 U.S.C. § 1252(g) bars review of any claim arising from the decision to commence proceedings, adjudicate cases, or execute removal orders. Even if the Court had jurisdiction over this case, Alfredo is an applicant for admission subject to mandatory detention under 8 U.S.C. § 1225(b). Moreover, while represented by counsel, Alfredo appeared before the Immigration Court on August 18, 2025, for a bond hearing in which an Immigration Judge found Alfredo is subject to mandatory detention. Alfredo's contentions that he has not been afforded an appearance before an Immigration Judge, a bond hearing, or an opportunity for representation are therefore moot.

BACKGROUND

Alfredo is a native and citizen of Guatemala. (Notice to Appear, Ex. 1 at 1.) After an arrest for driving without a license, was detained by Immigration and Customs Enforcement (ICE) on May 12, 2025. (Notice to EOIR, Ex. 2; Petition, Doc. 2-3 at 2.) Alfredo's notice to appear for removal proceedings charges he is (1) an alien present in the United States who has not been admitted or paroled under 8 U.S.C. § 1182(a)(6)(A)(i) and (2) an immigrant not in possession of a valid unexpired visa at the time of an application for admission under § 1182(a)(7)(A)(i)(I). (Notice to Appear, Ex. 1 at 4.)

Counsel for Alfredo entered an appearance with the Immigration Court on August 12, 2025. (Notice of Entry of Appearance, Ex. 3.) The Immigration Court issued a bond order in the petitioner's case on August 18, 2025, finding Alfredo detained under 8 U.S.C. § 1225(b) and therefore subject to mandatory detention. (Ex. 4.) Alternatively, the Immigration Judge concluded that Alfredo is a significant risk of flight based on two prior attempts to enter the United States using a fictitious name and claiming false nationality. *Id.* at 4.

Alfredo is currently detained at the Glades County Detention Center pending a determination of removability. (Notice to EOIR, Ex. 2.) Alfredo's next Immigration Court hearing is scheduled for September 8, 2025. (Notice of Hearing, Ex. 5.)

ARGUMENT

I. This Court lacks subject-matter jurisdiction to review Alfredo's petition.

Federal courts have limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*,

511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and statute.” *Id.* (citations omitted). In the context of immigration habeas cases related to removal proceedings—like here—the Immigration and Nationality Act (“INA”) divests this Court’s jurisdiction. Title 8 U.S.C. § 1252(g) provides, “[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” 8 U.S.C. § 1252(g). This provision bars habeas review in federal courts when the claim arises from “discrete acts of commencing proceedings, adjudicating cases, and executing removal orders.” *Reno v. American-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 483 (1999) (cleaned up). These activities “represent the initiation or prosecution of various stages in the deportation process” that Congress had “good reason” to withhold from judicial review. *Id.*

When construing § 1252(g), one must limit the application “to just those three specific actions” listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, “courts must focus on the action being challenged.” *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1258 (11th Cir. 2020). At bottom, § 1252(g) bars review if the conduct “to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim.” *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).

Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013); see also *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016)

(“Because [alien] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021). “By its plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process.” *Alvarez*, 818 F.3d at 1203.

ICE detained Alfredo to secure him “while awaiting a removal determination.” *Gupta*, 709 F.3d at 1065. Under *Gupta*’s binding interpretation of § 1252(g), this Court has no jurisdiction. *Id.* ICE decided to commence proceedings against Alfredo related to removal. Congress specifically stripped jurisdiction to review that discretionary decision; therefore, the Court lacks subject-matter jurisdiction over this case. *See also Shaikh v. Witte*, No. 421CV00849LSCJHE, 2023 WL 6854607, at *3 (N.D. Ala. Sept. 6, 2023), *report and recommendation adopted*, No. 421CV00849LSCJHE, 2023 WL 6849996 (N.D. Ala. Oct. 17, 2023) (finding the court was without jurisdiction to decide a plaintiff’s request for a bond hearing).

II. Alfredo is an applicant for admission subject to mandatory detention under 8 U.S.C. § 1225(b).

Even if this Court did have jurisdiction, Alfredo’s detention is lawful and mandatory. “An alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a); *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). “As relevant here,

applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. “Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.* “Section 1225(b)(2) is broader. It serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Id.*

“Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens.” *Id.* Under § 1225(b)(1), aliens are removed under an expedited process subject to a possible asylum interview. *Id.* “If an immigration officer determines after that interview that the alien has a credible fear of persecution, the alien shall be detained for further consideration of the application for asylum.” *Id.* (cleaned up). Under § 1225(b)(2), the “alien shall be detained for a proceeding under section 1229a” after “the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE is detaining Alfredo under § 1225(b) as an alien who entered the country without inspection. *See* 8 U.S.C. § 1325(a); *United States v. Aldana*, 878 F.3d 877, 882 (9th Cir. 2017). Detention in such circumstances is not unlawful; rather, it is statutorily required. 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV); 1225(b)(2)(A); *see Chaviano v. Bondi*, No. 25-22451-CIV-DAMIAN, 2025 WL 1744349,

at *6-8 (S.D. Fla. June 23, 2025) (holding detention lawful under § 1225(b)(1)); *Pena v. Hyde*, No. 25-11983-NMG, 2025 WL 2108913, at *1-3 (D. Mass. July 28, 2025) (holding detention lawful under § 1225(b)(2)).

III. Alfredo's contentions that he has not been afforded an appearance before an Immigration Judge, a bond hearing, or an opportunity for representation are moot.

Mootness is a jurisdictional doctrine that flows directly from the limitation, imposed by Article III of the Constitution, that federal court jurisdiction extends only to the consideration of cases and controversies. See U.S. Const. art. III; *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335-36 (11th Cir. 2001). “[A] case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Al Najjar*, 273 F.3d at 1335-36. In other words, “a case is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief.” *Id.* at 1336 (internal quotation marks omitted). Thus, “[i]f events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed.” *Id.*

“The courts have developed two exceptions to the mootness doctrine: (1) the existence of collateral consequences; and (2) when events surrounding the case are capable of repetition yet evading review.” *Id.* at *2. The collateral consequences exception to the mootness doctrine applies “when there is some remaining ‘collateral consequence’ that may be redressed by success on the petition.” *Fregis*,

2014 WL 54839, at *2 (quoting *Spencer*, 523 U.S. at 7). In other words, a petitioner must demonstrate that he is suffering a continued, concrete injury that can be remedied by the Court. *See Spencer*, 523 U.S. at 7-8.

A second exception to mootness is the so-called “capable-of-repetition doctrine.” *See Spencer*, 523 U.S. at 17. This exception “applies only in exceptional situations,” *id.*, where “(1) there is a reasonable expectation or a demonstrated probability that the *same* controversy will recur involving the same complaining party, and (2) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration,” *Al Najjar*, 273 F.3d at 1336. Importantly, “[t]he remote possibility that an event might recur is not enough to overcome mootness, and even a likely recurrence is insufficient if there would be ample opportunity for review at that time.” *Id.*

The present petition argues Alfredo has not been provided a bond hearing or other appearance before an Immigration Judge with the assistance of counsel. Counsel appeared for Alfredo on August 12, 2025. (Notice of Entry of Appearance, Ex. 3.) The Immigration Court held a bond hearing on August 18, 2025 (Aug. 18, 2025, Order, Ex. 4) and scheduled Alfredo’s next hearing for September 8, 2025 (Notice of Hearing, Ex. 5). Because the Alfredo has now appeared before an Immigration Judge for a bond hearing while represented by counsel, Alfredo’s petition should be dismissed as moot unless an exception to the mootness doctrine applies. *See Fregis*, 2014 WL 54839, at * 1. None does. Because Alfredo has been afforded the representation and hearing he sought in his petition, there is no continuing injury that

could be remedied by this Court. *See* 523 U.S. at 13-14. Similarly, there is no evidence to believe Alfredo will not be afforded a hearing or an opportunity to retain counsel in the future, and “[t]he remote possibility that an event might recur is not enough to overcome mootness” *See Al Najjar*, 273 F.3d at 1336. Accordingly, neither exception to the mootness doctrine applies, so Alfredo’s habeas petition should be dismissed. *See Fregis*, 2014 WL 54839, at *2-3.

CONCLUSION

The Court should dismiss Alfredo’s petition for lack of subject-matter jurisdiction. In the alternative, the Court should conclude Alfredo’s detention is lawful, and his remaining contentions are moot.

DATED this 22nd day of August, 2025.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 22, 2025, a true and correct copy of the foregoing was sent via U.S. mail to the following:

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A xxx-xx2-369
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Moore Haven, FL 33471

/s/ Chad C. Spraker
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