UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

GUSTAVO RAMOS CAMPOS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:25-cv-100
WARDEN, FOLKSTON ICE PROCESSING CENTER, ET AL.,	)	
	)	
	)	
Respondents.	)	

OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER

I. Introduction

Gustavo Ramos Campos ("Campos" or "Petitioner") filed a habeas corpus petition under 28 U.S.C. § 2241. Doc. 1. Campos's § 2241 petition is one of many now pending in this Court challenging a petitioner's designation as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In his petition, Campos contends that Respondents' authority to detain him is properly grounded in 8 U.S.C. § 1226, which—unlike § 1225—generally authorizes immigration judges to release aliens on bond. Campos's principal habeas claim is that Respondents' purportedly incorrect reading of the Immigration and Nationality Act ("INA") has deprived him of the opportunity for release on bond—thus resulting in his unlawful detention. Doc. 1 at 2-4, 12-13.

Campos filed a motion for temporary restraining order ("TRO motion") shortly after filing his § 2241 petition. Doc. 4. Campos's TRO motion seeks an order from this Court "requiring his immediate release or, in the alternative, an immediate bond

hearing." *Id.* at 2. Respondents respectfully submit that Campos has not met the high bar necessary to prevail on his request for emergency injunctive relief and that his motion should therefore be denied.[1]

II. Factual Background[2]

Campos is a native and citizen of Mexico who purportedly entered the United States without inspection more than twenty years ago and has since lived in this country. Doc. 1 at 1-2, 5; Doc. 4 at 1-2. On September 4, 2025, U.S. Immigration and Customs Enforcement ("ICE") arrested Campos during a workplace raid at a Hyundai facility in Georgia. Doc. 1 at 5; Doc. 4 at 2. ICE has charged Campos as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and § 1182(a)(7)(A)(i)(I), as an alien who did not have a valid unexpired immigrant visa or other valid entry document. Ex. 1. Other than a prior traffic offense, Campos has no known criminal convictions. Doc. 1 at 2, 5; Doc. 4 at 2.

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[1] Although Campos's motion is styled as a request for an emergency temporary restraining order, Respondents were given notice of the motion and are submitting this opposition to Campos's motion. In these circumstances, Campos's motion should be construed as a motion for preliminary injunctive relief. *See United States v. State of Ala.*, 791 F.2d 1450, 1458 (11th Cir. 1986) (allowing conversion of TRO into preliminary injunction when opposing party has notice); *Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 1914916, at *1 n.1 (S.D. Ga. Apr. 18, 2020) (Wood, J.) (same). The legal test governing motions for preliminary injunctive relief is the same test applicable to motions for TRO. *See, e.g., Ewe Grp., Inc. v. Bread Store, LLC*, 54 F. Supp. 3d 1343, 1347 (N.D. Ga. 2014).

[2] Respondents have had limited time to investigate the facts giving rise to this petition. At this preliminary stage, Respondents largely recite the allegations contained in Campos's § 2241 petition and subsequent TRO motion but do not concede Petitioner's allegations are accurate.

In his TRO motion, Campos claims that he "has been categorically denied the opportunity to seek bond, despite his long residence in the United States, his strong family ties, and his minimal record." Doc. 4 at 6. His motion seeks "his immediate release under reasonable conditions of supervision" and, in the alternative, "a prompt bond hearing before an Immigration Judge applying § 1226(a)." Doc. 4 at 8. Of note, Campos makes no claim that he has ever filed a request for bond at any time during his detention.

III. Legal Standard for Granting Preliminary Injunctive Relief

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Because it is an extraordinary and drastic remedy, "its grant is the exception rather than the rule." *United States v. Lambert*, 695 F.2d 536, 539 (11th Cir. 1983). "The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981); *see also Ne. Fla. Chapter of Ass'n of Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 896 F.2d 1283, 1284 (11th Cir. 1990) (noting that the chief function of a preliminary injunction is "to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated.").

The moving party bears the burden to establish the need for a preliminary injunction. To grant such "extraordinary relief," the Court must find that the movant has established four essential elements: "(1) a likelihood of success on the merits of the overall case; (2) irreparable injury; (3) the threatened injury outweighs the harm

the preliminary injunction would cause the other litigants; and (4) the preliminary injunction would not be averse to the public interest." *Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 3839938, at *4 (S.D. Ga. July 8, 2020) (Wood, J.). The most important of these factors is the likelihood of success on the merits, and if a movant is "unable to establish a likelihood of success on the merits, a court need not consider the remaining conditions prerequisite to injunctive relief." *Johnson & Johnson Vision Care, Inc. v. 1-800 Contacts, Inc.*, 299 F.3d 1242, 1247 (11th Cir. 2002).

A preliminary injunction should not be granted "unless the movant clearly established the burden of persuasion as to all four elements." *Horton v. City of Augustine, Fla.*, 272 F.3d 1318, 1326 (11th Cir. 2001) (quotation marks omitted). "[W]here the government is the party opposing the preliminary injunction, its interest and harm merge with the public interest." *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020).

IV. Argument

Campos's TRO motion presents a pure legal issue concerning the proper interpretation of 8 U.S.C. §§ 1225 and 1226. Whether Campos can meet the four-pronged test necessary for preliminary injunctive relief here hinges on his claim that Respondents' reading of the INA and their reliance on § 1225's mandatory-detention provision is incorrect as a matter of law. But Campos's argument suffers from two independently fatal flaws. First, this Court lacks jurisdiction to review Campos's detention. Second, a textual analysis of the relevant statutes undermines Campos's position; even if the Court were to review the merits of his claim, Campos cannot

demonstrate a likelihood of success, and his arguments concerning the other prongs of the injunctive-relief test evaporate. This Court should thus deny Campos's request for preliminary injunctive relief.

A. Petitioner Is Not Likely To Succeed on His Habeas Claim Concerning His Purportedly Unlawful Detention Under 8 U.S.C. § 1225.

1. Petitioner's habeas corpus claims are barred by statute, and the Court lacks jurisdiction over them.

The plain language of 8 U.S.C. § 1252(g) and the Eleventh Circuit's consistent interpretation of this provision independently foreclose Petitioner's habeas corpus claims. Congress stripped federal district courts of jurisdiction over § 2241 challenges to an alien's detention in 8 U.S.C. § 1252(g). That provision reads:

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no 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).

Calling § 1252(g) "unambiguous," the Eleventh Circuit held that this statute "bars federal courts' subject-matter jurisdiction over any claim for which the 'decision or action' of the Attorney General (usually acting through subordinates) 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). The Court of Appeals interpreted the scope of "commenc[ing] proceedings" to include "[s]ecuring an alien while awaiting a removal determination." *Id.*

A subsequent panel made *Gupta*'s holding more plainly applicable to the facts of Petitioner's habeas corpus petition, finding that "ICE's decision to take [a noncitizen] into custody and to detain him during his removal proceedings . . . w[as] closely connected to the decision to commence proceedings, and thus w[as] immune from our review." *Alvarez v. U.S. Immigr. & Customs Enf't*, 818 F.3d 1194, 1203 (11th Cir. 2016). The Eleventh Circuit found that § 1252(g) barred Alvarez's claim, even though he alleged his detention violated the Fourth and Fifth Amendments because government officials made knowing misrepresentations to detain him. *Id.* at 1203–04; *see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 488 (1999) ("[A]n alien unlawfully in this country has no constitutional right to assert selective enforcement as a defense against his deportation."). "When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. United States Citizenship & Immigr. Servs.*, 964 F.3d 1250, 1257–58 (11th Cir. 2020). Efforts to challenge the refusal of immigration officials to exercise favorable discretion also fall under § 1252(g)'s jurisdictional provision. *Alvarez*, 818 F.3d at 1205.

Here, Campos's petition challenges a specific action—securing him during removal proceedings—that the Eleventh Circuit has ruled falls within the scope of "commenc[ing] proceedings" referenced in § 1252(g). *See Gupta*, 709 F.3d at 1065. Consequently, Petitioner's habeas corpus claims are precluded by statute. And Campos cannot demonstrate a likelihood of succeeding on claims that this Court is barred from entertaining.

2. Sections 1225 and 1226 explained.

Regardless of the jurisdictional bar, Campos's claim that Respondents are unlawfully detaining him under § 1225(b) fails on the merits. To show why Campos's position lacks merit, Respondents first explain the two key statutory provisions at issue here—8 U.S.C. §§ 1225 and 1226.

Section 1225 applies to "applicants for admission," who are defined as "alien[s] present in the United States who [have] not been admitted" or "who arrive[] in the United States." 8 U.S.C. § 1225(a)(1). Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and "certain other" aliens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien "with a credible fear of persecution" is "detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of prosecution, or is "found not to have such a fear," he is detained until removed. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*,

583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a removal proceeding "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *see Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025) ("[A]liens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.") (citing *Jennings*, 583 U.S. at 300); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) ("[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'") (internal citation omitted; quoting *Jennings*, 583 U.S. at 299)). Still, the Department of Homeland Security ("DHS") has the sole discretionary authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

Section 1226, in turn, provides for arrest and detention "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole.[3] By

[3] Being "conditionally paroled under the authority of § 1226(a)" is distinct from being

regulation, immigration officers can release aliens if the alien demonstrates that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). An alien can also request a custody redetermination (i.e., a bond hearing) by an IJ at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

At a custody redetermination conducted pursuant to INA § 236(a), the IJ may continue detention or release the alien on bond or conditional parole. *See* 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad discretion in deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine factors for IJs to consider). Of note but of no bearing on Campos's case, Congress has mandated the detention of aliens that meet any one of several criteria specified in INA § 236(c), 8 U.S.C. § 1226(c).

3. Petitioner is an "applicant for admission" who must be detained under 8 U.S.C. § 1225.

Petitioner's detention is governed by 8 U.S.C. § 1225, which mandates that he remain in detention during the pendency of his removal proceedings, subject to DHS's discretionary release on parole under 8 U.S.C. § 1182(d)(5)(A). Pursuant to 8 U.S.C. § 1225(b)(2)(A), "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

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"paroled into the United States under the authority of § 1182(d)(5)(A)." *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007) (holding that because release on "conditional parole" under § 1226(a) is not a parole, the alien was not eligible for adjustment of status under § 1255(a)).

clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240."

In the present case, Petitioner is an "applicant for admission" to the United States because he entered the country illegally and he has not demonstrated to an examining immigration officer that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A): *see also DHS v. Thuraissigiam*, 591 U.S. at 140 (alien "who tries to enter the country illegally is treated as an 'applicant for admission'"). Petitioner cannot demonstrate that he is "clearly and beyond a doubt entitled to be admitted" because, as he is present in the United States without being admitted or paroled, he is inadmissible under 8 U.S.C. §§ 1182(a)(6) & (a)(7). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221-23; *supra* at 2 & Ex. 1. Accordingly, Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which mandates that he "shall be" detained. *See Chavez v. Noem*, No. 3:25-cv-02325, --- F. Supp. 3d ---, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025) ("Petitioners do not contest that they are aliens present in the United States who have not been admitted. By the plain language of § 1225(a)(1), then, Petitioners are 'applicants for admission' and thus subject to the mandatory detention provisions of 'applicants for admission' under § 1225(b)(2)(A)." (cleaned up)); *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025) ("Because petitioner [a Brazilian national who entered the country illegally in 2005] remains an applicant for admission, his detention is authorized so long as he is 'not clearly and beyond doubt entitled to be admitted' to the United States.") (quoting 8 U.S.C. § 1225(b)(2)(A)).

This reasoning is supported by Supreme Court precedent. As explained in *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), applicants for admission fall into one of two categories: those covered by § 1225(b)(1) and those covered by § 1225(b)(2). Section 1225(b)(1) applies to aliens arriving in the United States who are initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(2), on the other hand, is "broader" and "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here)." *Jennings*, 583 U.S. at 287 (emphasis added). Put another way, while § 1225(b)(1) applies to aliens "arriving" in the United States, § 1225(b)(2) applies to all "other" aliens who are applicants for admission—like Petitioner. Simply put, an alien does not lose his "applicant for admission" status as a matter of law simply because he failed to seek inspection and admission upon his immediate arrival in the United States. Moreover, the Supreme Court has confirmed that this statutory mandate for detention extends for the entirety of removal proceedings. *See Jennings*, 583 U.S. at 302 ("[Section] 1225(b)(2) ... mandates[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.").

Moreover, Respondent's position aligns with the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I. & N. 216 Dec. (BIA 2025)—a case applicable on all fours. There, the alien challenging his detention had crossed the border into the U.S. without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 216. United

States Citizenship and Immigration Services subsequently granted him temporary protected status. *See id.* at 216-17. After the expiration of that status, DHS issued him a NTA charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the U.S. without being admitted or paroled, or who arrived in the U.S. at any time or place other than as designated by the Attorney General. *See id.* at 217. After the IJ denied the alien's request for bond, the alien appealed to the BIA. *See id.*

On these facts, the BIA painstakingly reviewed the statutory and regulatory framework—ultimately concluding that "the plain reading of the INA" rendered the alien an "applicant[] for admission" who "must be detained for the duration of [his] removal proceedings." *Id.* at 220 (citing *Jennings*, 583 U.S. at 300). In a similar vein, Campos's status as an "applicant for admission" mandates that he be detained during the pendency of his removal proceedings.

4. Campos's arguments concerning §§ 1225 and 1226 are unpersuasive.

Campos's position is based on incorrect premises and suffers from significant flaws that his arguments fail to address.

i. Campos claims that "[e]very district court to consider" whether 8 U.S.C. §§ 1226(a) or 1225(b) applies in cases like his has ruled in favor of the petitioner. Doc. 4 at 4. But this simply is not so. At least two district courts have ruled in favor of respondents when confronted with arguments like Campos's. *See Chavez v. Noem*, No. 3:25-cv-02325, --- F. Supp. 3d ---, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24,

2025); *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025).[4] In short, courts have not been universally receptive to the position Campos seeks to advance here.

ii. Lest there be some doubt on this score, no binding precedent forecloses Respondents' interpretation of the INA. Several pages after string-citing district court cases that purportedly support his position, Petitioner's motion states that *Ortiz-Bouchet v. U.S. Att'y Gen.*, 714 F.3d 1353 (11th Cir. 2013), is "consistent with" his approach. Doc. 4 at 6. If *Ortiz-Bouchet* was on point, citation to out-of-circuit cases would be unnecessary. But *Ortiz-Bouchet* addressed a separate statutory provision, 8 U.S.C. § 1182(a)(7)(A)(i)(I), and did so several years prior to the Supreme Court's *Jennings* decision. *See Jennings*, 583 U.S. at 287 (characterizing § 1225(b)(2)(A) as a "catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)"). In short, this Court is free to follow the INA's plain language, and Respondents respectfully request the Court to do so. *See Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) ("As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute.").

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[4] Campos tosses aside *Pena v. Hyde* with his assertion that it "concerned a different issue as to the effect of an approved family petition and is therefore not relevant" to his case. Doc. 4 at 5. Campos conveniently ignores that the whole point of *Pena v. Hyde*'s discussion of whether the approval of an I-130 petition alters an alien's status was to determine if Petitioner Pena fell beyond the scope of "applicant for admission" as referenced in § 1225(b)(2)(A). *See Pena*, 2025 WL 2108913, at *1 ("In the absence of any such lawful status, petitioner thus remains an applicant for admission, notwithstanding the approval of his I-130 petition."). The district court's discussion of § 1225 and its application of § 1225(b)(2)(A) to Pena, who entered the country illegally in 2005, aligns perfectly with Respondents' reading of the INA here.

iii. Petitioner contends that Respondents' interpretation of the INA renders a recent amendment to the INA superfluous, but it is Petitioner's reading of the INA that fails to reconcile the INA's complementary provisions. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 222-24; Doc. 1 at 8-9. As recently explained by the BIA, "[t]he statutory definition of an 'applicant for admission' was added to the INA in 1996, with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA")[.]" *Id.* at 222. Prior to IIRIRA's enactment, "the INA provided for inspection of aliens only when they were arriving at a port of entry." *Id.* (citations omitted). "Aliens who were 'seeking admission' at a port of entry under former section 235 of the INA, 8 U.S.C. § 1225," were "subject to mandatory detention, with potential release solely" through a grant of parole. *Id.* at 223. But aliens who were "in the United States" and within certain classes of aliens were entitled to request release on bond. *See id.* Thus, prior to IIRIRA, "aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' including the right to request release on bond, while aliens who had 'actually presented themselves to authorities for inspection were restrained by more summary exclusion proceedings,' and were subject to mandatory custody." *Id.* (quoting *Martinez v. Att'y Gen. of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012)).

The 1996 amendment to the INA sought to remedy this obvious inequity. IIRIRA "substituted the term 'admission' for 'entry' and replaced deportation and exclusion proceedings with removal proceedings." *Id.* "Thus, after the 1996

enactment of IIRIRA, aliens who enter the United States without inspection or admission are 'applicants for admission' under section 235(a)(1) of the INA, 8 U.S.C. § 1225(a)(1), and subject to the inspection, detention, and removal procedures of section 235(b) of the INA, 8 U.S.C. § 1225(b)." *Id.* at 224. Put simply, IIRIRA "eliminate[d] the prior statutory scheme that provided aliens who entered the United States without inspection more procedural and substantive rights than those who presented themselves to authorities for inspection." *Id.* at 225 (citations omitted). But "[i]nterpreting the provisions of INA in the manner [Campos] argues would essentially repeal the statutory fix that Congress made with the 1996 passage of IIRIRA." *Id.*

iv. As for Campos's claim that Respondent's reading of the INA renders the Laken Riley Act (8 U.S.C. § 1226(c)(1)(E)) superfluous, the BIA has persuasively explained why this concern is misplaced. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221-22. First and foremost, "nothing in the statutory text" of the Laken Riley Act alters or undermines the plain text of § 1225—and when the text is plain, it controls. *Id.* at 222. Reading the Laken Riley Act as either abrogating § 1225 or overwriting its plain meaning would constitute commission of the very sin that Petitioner levels against Respondents. Second, that Congress in 2025 enacted a provision mandating detention for aliens (§ 1226(c)(1)(E)) who also fall within a subset of aliens subject to mandatory detention under § 1225(b) is neither exceptional nor a license to cast aside § 1225(b)(2)(A) as "null and void." *Id.* (citing and quoting *Barton v. Barr*, 590 U.S. 222, 239 (2020) ("[R]edundancies are common in statutory drafting—sometimes in a

congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication.")). Petitioner's reliance on the canon against surplusage is unavailing.

v. Petitioner places much stock in prior administrative policy, emphasizing that "from 1997 until September 2025, individuals like Mr. Ramos Campos were consistently eligible for bond after their detention." Doc. 4 at 5. But "no amount of policy-talk can overcome a plain statutory command." *Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021). "[T]he statutory text of the INA" is "clear and explicit in requiring mandatory detention of all aliens who are applicants for admission, without regard to how many years the alien has been residing in the United States without lawful status." *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 226. And the Supreme Court has never held "that the long-standing practice of the government can somehow change, or even eviscerate, explicit statutory text that is contrary to that practice." *Id.* (citing *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 385-86 (2024)). Given the INA's plain text, nothing more need be said about Petitioner's reliance on prior governmental policy and practice.

B. Even if the Court Finds Petitioner's Interpretation of the INA Persuasive, § 1226(a) Does Not Authorize Petitioner's "Immediate Release" From Custody.

Should the Court reject Respondents' reading of the INA and determine that the statutory provision authorizing Petitioner's detention is 8 U.S.C. § 1226(a), Petitioner's request for "immediate release" fails regardless. Doc. 4 at 1. Section

1226(a) does not provide an alien with an absolute right to release on bond. *See Matter of D-J-*, 23 I. & N. Dec. 572, 575 (A.G. 2003) (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). Nor does the Constitution. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953); *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020). Rather, § 1226(a) gives the Attorney General and DHS broad discretionary authority to detain an alien during removal proceedings. *See* 8 U.S.C. § 1226(a)(1) (DHS "may continue to detain the arrested alien" during the pendency of removal proceedings);[5] *Nielsen v. Preap*, 586 U.S. 392, 409 (2019) (highlighting that "subsection (a) creates authority for *anyone's* arrest or release under § 1226—and it gives the Secretary broad discretion as to both actions").

In this case, Petitioner entered ICE's custody in September 2025. He makes no claim in any of his filings that he has requested a bond hearing. Regardless, and assuming *arguendo* the Court determines Petitioner is detained pursuant to § 1226(a), the decision whether to release Petitioner is entrusted to immigration judges—not the federal courts. If Petitioner sustains an adverse bond determination, he may appeal the IJ's decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f),

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[5] Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General's authority—delegated to immigration judges, *see* 8 C.F.R. § 1003.19(d)—to detain, or authorize bond for noncitizens under section 1226(a) is "one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings." *Matter of D-J-*, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

1003.38, 1236.1(d)(3); *Santiago-Lugo v. Warden*, 785 F.3d 467, 471-75 (11th Cir. 2015) (explaining exhaustion requirement). Ultimately, the IJ's bond determination is not subject to federal court review. *See* 8 U.S.C. § 1226(e).

C. If the Court Issues an Injunction, It Should Require Campos to Give Security Pursuant to Rule 65(c).

Rule 65(c) of the Federal Rules of Civil Procedure states that a court may issue a preliminary injunction "only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Should the Court grant an injunction to Petitioner, the government respectfully requests, pursuant to executive policy, that this Court require him to provide an appropriate security amount to ensure that the government is paid for any damages it sustains. *See Presidential Memorandum, Ensuring the Enforcement of Federal Rule of Civil Procedure 65(c)*, 2025 WL 762840 (March 11, 2025). The government leaves the amount of such security to this Court's sound discretion. *See BellSouth Telecommunications, Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005) (amount of security required by Rule 65(c) is a matter within the discretion of the trial court).

V. Conclusion

This Court should deny Campos's motion for temporary restraining order.

Respectfully submitted, this 30th day of September, 2025.

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