

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

BRAYAN FERNEY LOPEZ LIZARAZO,)
)
 Petitioner,)
)
 v.) Civil Action No. 5:25-cv-105
)
 WARDEN, FOLKSTON ICE)
 PROCESSING CENTER, ET AL.,)
)
 Respondents.)

RESPONDENT'S ANSWER

Warden-Respondent respectfully submits that Petitioner Brayan Ferney Lopez Lizarazo (A ) is a native and citizen of Columbia who is lawfully detained by Immigration and Customs Enforcement (ICE) at the Folkston ICE Processing Center under the authority of 8 U.S.C. § 1225(b)(2)(A). See Exhibit 1, Declaration of Crystal White at ¶¶ 3, 4, 14.

Justiciability

Petitioner's 28 U.S.C. § 2241 petition claims that Respondent's purportedly incorrect reading of the Immigration and Nationality Act ("INA") has deprived Petitioner of the opportunity for release on bond—thus resulting in his unlawful detention. Petitioner's claims are procedurally barred by 8 U.S.C. § 1252(g).

Hearing Transcripts/Recordings

Neither the Warden of the Folkston ICE Processing Center nor the Department of Homeland Security possesses or has access to transcripts or recordings of the underlying immigration proceedings. Immigration hearings are recorded

electronically by the Immigration Judge and are transcribed if an Immigration Judge's decision is appealed to the Board of Immigration Appeals. Immigration Court Practice Manual § 4.10(a), (b). Master calendar, merits hearings, and detention reviews following a final order of removal are recorded as a matter of course. Arguments made in support of motions or applications, such as a motion for redetermination of bond status, however, are not required to be recorded, although Immigration Judges may record them at their discretion. *See* 8 C.F.R. § 1240.9; Immigration Court Practice Manual § 9.3(e)(3). Undersigned counsel contacted the Executive Office of Immigration Review regarding whether any recordings exist of hearings in the underlying immigration proceedings and learned the following hearings were recorded:

- 9/10/2024 – Master Calendar hearing
- 2/6/2025 – Master Calendar hearing

No Evidentiary Hearing Is Necessary

Respondent submits there is no need for the Court to hold an evidentiary hearing. Lizarazo's § 2241 petition presents a legal dispute concerning a question of statutory interpretation that can and should be resolved absent an evidentiary hearing.

Petitioner's Detention Is Lawful

Petitioner is lawfully detained. He entered the United States at an unknown place on an unknown date. *See* White Decl. at ¶ 4. Petitioner has been charged 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. *See id.* at ¶ 5.

Petitioner qualifies as an “applicant for admission” to the United States under 8 U.S.C. § 1225(b)(2)(A), 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.” § 1225(b)(2)(A). Detention is mandatory under this provision. *See id.* (“[I]n 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.”). Consequently, Petitioner’s detention during the pendency of his removal proceedings is lawful and in accordance with the INA.

Respondent reserves all available defenses in this matter to be asserted in a forthcoming motion to dismiss.

Respectfully submitted, this 23d day of October, 2025.

MARGARET E. HEAP
UNITED STATES ATTORNEY

/s/ Michael N. Loebel
Georgia Bar No. 455709
Assistant United States Attorney
U.S. Attorney's Office
Post Office Box 2017
Augusta, Georgia 30903
Telephone: (706) 724-0517
E-mail: michael.loebel@usdoj.gov