UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

LUIS CONTRERAS ORELLANA — PETITIONER

v. — CIVIL ACTION NO. 4:25-cv-00112-RGJ (*e-filed*)

KRISTI NOEM, Secretary, U.S. Department of Homeland Security;
TODD M. LYONS, Acting Director of Immigration and Customs Enforcement;
JEREMY BACON, Field Office Director of Enforcement and Removal Operations;
SAMUEL J. OLSON, Field Office Director of Enforcement and Removal Operations;
TOM WATT, Sheriff of Grayson County, Kentucky, in their official capacities — RESPONDENTS

SHOW CAUSE WHY WRIT OF HABEAS CORPUS SHOULD NOT BE GRANTED

Petitioner Orellana is an applicant seeking admission who is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(A).[1]

I. Lawful basis for detention

Petitioner Orellana is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(A), because Orellana is an applicant seeking admission, and the examining immigration officer determined that Orellana is not clearly and beyond a doubt entitled to be admitted.

II. Facts

Orellana illegally entered the United States in Texas, without being inspected, admitted,

[1] This response to Petitioner's habeas petition is filed on behalf of Respondents Kristi Noem, Todd Lyons, Jeremy Bacon, and Samuel J. Olson. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States' interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States' interests to the extent that the petition names Tom Watt, the Grayson County Sheriff, as a respondent.

or paroled. Orellana eventually ended up in the Daviess County Jail due to various felony charges. Immigration and Customs Enforcement (ICE) detained Orellana at the jail because Orellana lacked immigration status and was removable.

III. Application of law to facts

A. Orellana is an applicant for admission.

"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 U.S.C. § 1225(a)(1). Orellana is present in the United States. Orellana has not been admitted. Orellana is an applicant for admission, by the terms of 8 U.S.C. § 1225(a)(1).

"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." 8 U.S.C. § 1101(a)(13)(A). Orellana never effected lawful entry into the United States. Orellana is "an alien present in the United States who has not been admitted", and as such, "shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). See also Admission, Black's Law Dictionary (12th ed. 2024): "Admission: Immigration law. The entry into a country by [a noncitizen] with apparent legal permission to do so, usu. as obtained with a visa."

B. The Supreme Court's interpretation of 8 U.S.C. § 1225(b) in *Jennings v. Rodriguez*

Orellana cites *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (Doc. 1, PageID.8-9, ¶ 33), but the language and reasoning in that case is incompatible with Orellana's construction of the

relevant statutes and definitions.

Jennings interpreted 8 U.S.C. §§ 1225(b), 1226(a), and 1226(c). 583 U.S. at 286-287 ("In this case we are asked to interpret three provisions of U.S. immigration law that authorize the Government to detain aliens in the course of immigration proceedings."). "Under § 302, 110 Stat. 3009–579, 8 U.S.C. § 1225, an alien who 'arrives in the United States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Id.* at 287, quoting 8 U.S.C. § 1225(a)(1). "[A]pplicants 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 initially determined to be inadmissible due to … lack of valid documentation." *Id.* at 837, citing 8 U.S.C. § 1225(b)(1)(A)(i). citing 8 U.S.C. §§ 1182(a)(6)(C), (a)(7). "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) (with specific exceptions not relevant here)." *Id.*, citing 8 U.S.C. §§ 1225(b)(2)(A), (B).

"Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens. Aliens covered by § 1225(b)(1) are normally ordered removed 'without further hearing or review' pursuant to an expedited removal process." *Id.* at 287. "Aliens who are instead covered by § 1225(b)(2) are detained pursuant to a different process. Those aliens 'shall be detained for a [removal] proceeding' if an immigration officer 'determines that [they are] not clearly and beyond a doubt entitled to be admitted' into the country." *Id.* at 288, quoting 8 U.S.C. § 1225(b)(2)(A).

"Regardless of which of those two sections authorizes their detention, applicants for admission may be temporarily released on parole 'for urgent humanitarian reasons or significant

public benefit.'" *Id.* at 288, quoting 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R §§ 212.5(b), 235.3. "Such parole, however, 'shall not be regarded as an admission of the alien.'" *Id.* quoting 8 U.S.C. § 1182(d)(5)(A). "Instead, when the purpose of the parole has been served, 'the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.'" *Id.*

"Even once inside the United States, aliens do not have an absolute right to remain here. For example, an alien present in the country may still be removed if he or she falls 'within one or more ... classes of deportable aliens.'" *Id.* at 288, citing 8 U.S.C. § 1227(a). "That includes aliens who were inadmissible at the time of entry or who have been convicted of certain criminal offenses since admission." *Id.*, citing 8 U.S.C. §§ 1227(a)(1), (2). *Jennings* says that "Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal." *Id.* Jennings explicitly does not say that § 1226 exclusively governs the process of arresting and detaining that group of aliens, aliens who are "inside the United States", "present in the country." *Id.* That makes sense: § 1226 would apply to aliens who are aliens who are "inside the United States", "present in the country", previously admitted (unlike Orellana) but, for instance, whose visas have since expired, or who are found to have procured a visa or other admission through fraud or misrepresentation. 8 U.S.C. §§ 1182(a)(6)(C)(i), 1202(g).

"§ 1225(b) applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Jennings*, 583 U.S. at 297. And Orellana is among the "aliens seeking entry into the United States ('applicants for admission' in the language of the statute')" to whom § 1225(b) applies. See 8 U.S.C. § 1225(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"; "the alien is on U.S. soil, but the alien is not considered to have entered the country for the purposes of this rule"); 8 U.S.C. § 1182(d)(5)(A) ("parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States"; 8 U.S.C. § 1101(a)(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.").

C. Proper application of *Jennings* to § 1225 and § 1226

Orellana cites district court cases from July, August, and September of 2025 in support of the argument "that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States." (Doc. 1, PageID.10-11, 12-13, ¶¶ 38, 45.). This Court issued a similar decision in September, 2025. See *Singh v. Lewis*, 4:25-cv-00096-RGJ. But those decisions do not comport with the Supreme Court's interpretation and explanation of 8 U.S.C. §§ 1225(b), 1226(a), and 1226(c) in *Jennings*. In contrast, two more recent district court decisions, *Chavez v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025) and *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351, at *2 (D. Neb. Sept. 30, 2025), extensively cited and applied *Jennings* in holding that "noncitizens residing in

the United States" are subject to 8 U.S.C. § 1225(b).

1. *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025)

In *Chavez*, "Petitioners argue[d] that they should not be mandatorily detained under § 1225(b)(2) but rather granted bond redetermination hearings pursuant to § 1226(a) and related agency regulations." *Chavez*, 2025 WL 2730228 at *1. The *Chavez* court rejected the petitioners' argument that "because they are noncitizens residing in the United States who originally entered the United States without inspection or parole, and have not affirmatively sought admission, § 1225(b)(2)'s mandatory detention provision does not apply to them." *Id.* at *4.

As the Chavez court noted, "We begin, as always, with the text." *Id.* at *4, quoting *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). "Section 1225(b)(2)(A) requires mandatory detention 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[.]'" *Id.*, citing 8 U.S.C. § 1225(b)(2)(A) (emphasis in original). "And Section 1225(a)(1) expressly defines that '[a]n alien present in the United States who has not been admitted ... shall be deemed for purposes of this Act *an applicant for admission.*'" *Id.*, quoting 8 U.S.C. § 1225(a)(1) (emphasis in original). "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)." *Id.*

"Such a reading of the statute comports with Congress' addition of § 1225(a)(1) by IIRIRA in 1996. Prior to IIRIRA, an 'anomaly' existed 'whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had

crossed the border unlawfully.': *Id.*, quoting *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020). "The addition of § 1225(a)(1) 'ensure[d] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA—in the position of an "applicant for admission."'" *Id.* "As the Ninth Circuit did recently in *United States v. Gambino-Ruiz*, 91 F.4th 981, 990 (9th Cir. 2024), we thus also 'refuse to interpret the INA in a way that would in effect repeal that statutory fix' intended by Congress in enacting IIRIRA." *Id.*

The *Chavez* court rejected the notion that application of 8 U.S.C. § 1225 to aliens in the interior would render § 1226 redundant or superfluous. "Heeding the plain language of the statute also does not contradict or render superfluous § 1226, as Petitioners urge. Section 1226(a) provides that '[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.'" *Id.* at *5. "8 U.S.C. § 1101(a)(3) defines an alien as 'any person not a citizen or national of the United States.' As the *Jennings* court explained, § 1226 'generally governs the process of arresting and detaining' certain aliens, namely 'aliens who were inadmissible at the time of entry or who have been convicted of certain criminal offenses since admission.'" *Id.*, quoting *Jennings*, 583 U.S. at 288 (emphasis omitted).

The *Chavez* court also rejected the notion that the Laken Riley Act indicates that § 1225 should not apply to aliens in the interior. "Nor does § 1225's explicit definition of 'alien[s] present in the United States who ha[ve] not been admitted' as 'applicants for admission' render the addition of § 1226(c) by the Riley Laken Act superfluous. Section 1226(c) simply removed the Attorney General's detention discretion for aliens charged with specific—but not all—

crimes. The Attorney General may still exercise her detention discretion under § 1226(a) for any other aliens falling under that subsection who are not charged with the specific crimes carved out by § 1226(c)."

2. *Vargas Lopez v. Trump*, 2025 WL 2780351 (D. Neb. Sept. 30, 2025)

Vargas Lopez presented the same legal arguments that are before this Court in Orellana's petition. Vargas Lopez "allege[d] that he 'was initially detained without bond by DHS "[p]ursuant to the authority contained in section 236" of the INA [8 U.S.C. § 1226]'", as he "received a Notice to Appear as required by 8 U.S.C. § 1229(a) to initiate removal proceedings pursuant to 8 U.S.C. § 1229a". *Vargas Lopez*, 2025 WL 2780351 at *2, 5. ICE then argued to the immigration judge that Vargas Lopez should be held without bond under 8 U.S.C. § 1225(b), but the immigration judge disagreed and granted bond under 8 U.S.C. § 1226. *Id.* at 5-8. ICE filed a notice of intent to appeal the immigration judge's decision, and Vargas-Lopez remained in custody due to the automatic stay under 8 C.F.R. § 1003.19(i)(2). *Id.* at *3.

Vargas-Lopez filed a habeas petition alleging "that the DHS's application in his case of 8 U.S.C. § 1225(b)(2), which does not provide for bond, is unlawful because he was detained under 8 U.S.C. § 1226, which expressly provides the possibility of release on bond." *Id.* at *4. The court summarized the petitioner's argument as follows: "Vargas Lopez asserts that he was detained under § 1226(a), so he was eligible for release on bond." *Id.* at *6. Although Vargas Lopez "allege[d] that he 'was initially detained without bond by DHS "[p]ursuant to the authority contained in section 236" of the INA [8 U.S.C. § 1226]'", as he "received a Notice to Appear as required by 8 U.S.C. § 1229(a) to initiate removal proceedings pursuant to 8 U.S.C. § 1229a", the respondents argued that Vargas Lopez "was instead detained under § 1225(b)(2),

so he was never eligible for release on bond." *Id.* at *2, 5, 6. ICE argued to the district court "that Vargas Lopez should have been detained without the possibility of a bond hearing under § 1225(b)." *Id.* at *3. The district court agreed with the ICE respondents and ruled against the petitioner, holding that "Vargas Lopez's argument that § 1225(b)(2) does not apply to him but § 1226(a) does is premised on the assumption that the two statutes apply to distinct groups of aliens. The Court rejects that assumption." *Id.* at *7.

The *Vargas-Lopez* court thoroughly reviewed and applied *Jennings* in reaching its conclusions. First, the court observed that *Jennings* establishes that "'[a]n alien who "arrives in the United States," or "is present" in this country but "has not been admitted," is treated as "an applicant for admission."' [8 U.S.C.] § 1225(a)(1)." *Id.* at *5, quoting *Jennings*, 583 U.S. at 287. The Court examined 8 U.S.C. § 1225(b)(1), and noted that "[a]ccording to the Supreme Court, 'Section 1225(b)(2) is broader.' Specifically, '[i]t serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here).'" *Id.* at *5, citing *Jennings*, 583 U.S. at 287.

Quoting and applying *Jennings* extensively, *id.* at *6-8, the court concluded that "Vargas Lopez wishes to stay in this country. This makes Vargas Lopez an 'applicant for admission,' consistent with the conclusion of the BIA in *Hurtado* and *Jennings*." *Vargas Lopez*, 2025 WL 2780351 at *9. "Pursuant to the language of the statute and the holding of *Jennings*, just because Vargas Lopez illegally remained in this country for years does not mean that he is suddenly not an 'applicant for admission' under § 1225(b)(2)." *Id.* "Even if Vargas Lopez might fall within the scope of § 1226(a), he certainly fits within the language of § 1225(b)(2) as well." *Id.* The Vargas Lopez court concluded that "the plain language of § 1225(b)(2) and the 'all applicants for

admission' language of *Jennings* permit the DHS to detain Vargas Lopez under § 1225(b)(2)." *Id.*

The *Vargas Lopez* court explained that both the statutory text and the analysis in *Jennings* establish that § 1225(b) and § 1226(a) overlap. *Vargas Lopez*, 2025 WL 2780351 at *7-9. "This reading of the overlapping relationship between § 1225(b) and § 1226(a) is not only consistent with the plain language of the two provisions but consistent with the interpretation of the two provisions under *Jennings*. First, § 1226 does not contain language limiting its application 'to aliens already present in the United States.'" *Id.* at *9, citing *Jennings*, 583 U.S. at 289 ("stating that United States immigration law 'authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).') and at 303, ("As noted, § 1226 applies to aliens already present in the United States"), with 8 U.S.C. § 1226(a) ("containing no reference to aliens 'present' or 'already present' in the United States") and 8 U.S.C. § 1226(c) ("containing no reference to 'criminal aliens' 'present' or 'already present' in the United States").

Because § 1225(b) and § 1226(a) overlap, and because § 1226 is not limited to ""alien[s] present in the United States", the *Vargas Lopez* court found that "the references to 'aliens' in § 1226 must be read to mean 'alien[s] present in the United States who ha[ve] not been admitted' within the meaning of § 1225(a)(1) and within at least the 'catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)' in § 1225(b)(2)." *Vargas Lopez*, 2025 WL 2780351at *9, quoting *Jennings*, 583 U.S. at 287.

The *Vargas Lopez* court explained further how application of *Jennings* leads to the conclusion that aliens may be subject to either § 1225 or § 1226, a determination that is left to

ICE's discretion: "the Supreme Court's decision in *Jennings* does not state that § 1225(b) and § 1226(a) apply to distinct groups of aliens. The Supreme Court did not state that § 1225(b) applies only 'to aliens seeking entry into the United States'; rather, the Supreme Court said § 1225(b) 'applies primarily to aliens seeking entry into the United States.'" *Vargas Lopez*, 2025 WL 2780351 at *9, n. 5, quoting *Jennings*, 583 U.S. at 297. "As a matter of plain language, the additional aliens to whom § 1225(b) applies are 'alien[s] present in the United States who ha[ve] not been admitted' according to the definition of 'applicants for admission' in § 1225(a)(1). That is arguably the same group of aliens to which the Supreme Court stated § 1226(a) applies." *Id.*, citing *Jennings*, 583 U.S. at 297 ("§ 1226 applies to aliens already present in the United States").

As the *Vargas Lopez* court noted, since both § 1225 and § 1226 may apply to the same alien, the enforcing agency may elect which of the two statutes to use as the basis for detention. "Even if Vargas Lopez is subject to § 1226(a) in addition to § 1225(b), this Court sees no reason why the DHS may not choose to detain Vargas Lopez under the statute that does not allow for release on bond, § 1225(b). Indeed, in the area of immigration where the executive has considerable discretion, the executive may choose to pursue this civil action in any manner allowed by applicable law." *Vargas Lopez*, 2025 WL 2780351 at *9, n. 5.

The *Vargas Lopez* court summarized the federal respondents' arguments as asserting that § 1225 and § 1226 "'overlap' as to aliens they cover, like a 'Venn diagram.' In other words … some aliens certainly fall within § 1225(b)(2), even if they may also fall within § 1226(a). Under such circumstances … they may either 1) detain such alien without the possibility of release on bond under § 1225(b)(2), or 2) detain the alien under § 1226(a) and provide the permissive possibility of release on bond." *Vargas Lopez*, 2025 WL 2780351 at *8. The *Vargas Lopez*

court credited that argument because the language in both those statutes and *Jennings* compels that result. *Id.* at *9.

D. Orellana's arguments, compared to the text of 8 U.S.C. § 1225 and the Supreme Court's interpretation of it in *Jennings v. Rodriguez*

1. An applicant for admission remains an applicant for admission regardless of the duration of their presence in the United States.

Orellana argues that "8 U.S.C. § 1225 ... provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission under 8 U.S.C. § 1225(b)(2)." (Doc. 1, PageID.8, ¶ 32.). Orellana repeats that argument by asserting that "[t]he mandatory detention scheme under 8 U.S.C. § 1225(b)(2) applies only to noncitizens arriving at U.S. ports of entry who recently entered the United States." (Doc. 1, PageID.8, ¶ 33.). But nothing in 8 U.S.C. § 1225 limits its application to "recent arrivals" or recent entry. 8 U.S.C. § 1225(b)(2) applies to "an alien who is an applicant for admission". Neither that statute nor the definition of "applicant for admission" makes any reference to the recency of arrival. An applicant for admission is defined as "[a]n 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)". 8 U.S.C. § 1225(a)(1). The statutory definition of "applicant for admission" includes both those "present in the United States" and those who arrive, without excluding anyone based on how long they have been "present in the United States". *Id.*

The same is true for Orellana's argument that detention under 8 U.S.C. "§ 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the

United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond." (Doc. 1, PageID.3, ¶ 7.). But that construction is contrary to the language of the operative statute: "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 U.S.C. § 1225(a)(1). The statute makes no reference to whether an alien "previously entered" or is "now residing in the United States", as Orellana argues. 8 U.S.C. § 1225(a)(1); Doc. 1, PageID.3, ¶ 7.

The *Vargas Lopez* court specifically considered and rejected the assertion that a years-long presence in the United States somehow alters the status of an applicant for admission: "Pursuant to the language of the statute and the holding of *Jennings*, just because Vargas Lopez illegally remained in this country for years does not mean that he is suddenly not an 'applicant for admission' under § 1225(b)(2)." *Vargas Lopez*, 2025 WL 2780351, at *9.

2. Parole is not admission to the United States, and it does not alter or end applicant for admission status.

Orellana argues that having an expired parole and presence for years in the country means Orellana is not seeking admission into the United States. (Doc. 1, PageID.14, ¶ 47.). "On the contrary, aliens who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border.'" *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (citations omitted). In a situation like Orellana's, "the alien is on U.S. soil, but the alien is not considered to have entered the country for the purposes of this rule." *Id.* Parole is not admission to the United States,

because 8 U.S.C. § 1182(d)(5)(A) says that "parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States."

E. This habeas petition is an improper vehicle for any challenge to conditions of confinement.

Orellana's petition includes a brief challenge to conditions of confinement. (Doc. 1, PageID.6-7, 16-17, ¶¶ 26, 64-67.). Respondents deny that Orellana's conditions of confinement are unreasonable or dangerous. In any event, Orellana's challenge to conditions of confinement is not properly before the Court in this habeas petition.

Orellana is before this Court on a habeas petition filed under 28 U.S.C. § 2241. (Doc. 1-1, PageID.4, ¶¶ 15-17; Doc. 1-7, PageID.40.). "Section 2241 is not available to review questions unrelated to the cause of detention", to include conditions of the Petitioner's confinement such as overcrowding. *Tingle v. Woosley*, 2016 U.S. Dist. Lexis 145942, at *4 (W.D. Ky. October 20, 2016) (McKinley, J.), citing *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004). "Such claims must be brought as a civil rights action". *Id.*, citing *Rice v. Coakley*, No. 4:14-CV-0085, 2014 U.S. Dist. LEXIS 90205, 2014 WL 3186093, at *1-2 (N.D. Ohio July 2, 2014). The Sixth Circuit has repeated this principle, in upholding a district court's dismissal of a habeas petition filed under 28 U.S.C. § 2241 challenging conditions of confinement: "In general, prisoners challenging the conditions of their confinement must do so through a civil rights action." *Mescall v. Hemingway*, No. 20-1857, 2021 WL 4025646, at *1 (6th Cir. Apr. 7, 2021), citing *Preiser v. Rodriguez*, 411 U.S. 475, 487-88 (1973) and *Nelson v. Campbell*, 541 U.S. 637, 643

(2004). See also *Thompson v. Robey*, No. 3:21-CV-69-BJB, 2021 WL 4955191, at *1 (W.D. Ky. Oct. 25, 2021) (Beaton, J.), citing *Mescall*, 2021 WL 4025646, at *1 ("claims challenging the prison conditions and the lack of COVID-19 testing are not cognizable in a § 2241 proceeding").

IV. Conclusion

The Court should deny the petition because Orellana is an applicant seeking admission who is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(A).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2025, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Petitioner.

/s/ Jason Snyder
Jason Snyder
Assistant United States Attorney