

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CILFIO UDIEL BAUTISTA-
OROZCCO,

Petitioner/Plaintiff,

Case No.: 3:25-cv-01215-MMH-MCR

v.

GARRETT RIPA, Field Office Director
of Enforcement and Removal
Operations, Miami, Field Office,
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; PAMELA BONDI, U.S.
Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION
REVIEW; SCOTTY RHODEN, Warden
of Baker County Detention Center,

Respondents/Defendants.

**RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS
CORPUS (ECF 1)**

The federal Respondents Garrett Ripa, in his official capacity as Field Office Director of Enforcement and Removal Operations, Miami, Field Office, Immigration and Customs Enforcement; Kristi Noem, in her official capacity as Secretary of the U.S. Department of Homeland Security; U.S. Department of Homeland Security,

Pamela Bondi, in her official capacity as Attorney General for the United States, and Executive Office for Immigration Review, by and through the undersigned Assistant United States Attorney, hereby respond to Petitioner Cilfio Udiel Bautista-Orozco's (hereafter "Petitioner") Petition for Writ of Habeas Corpus (ECF 1) as required by the court's October 10, 2025 Order (ECF 3). Respondents hereby show cause as to why the petition should be denied.

The court lacks jurisdiction. Apart from that, the petition is moot because Petitioner is now detained as a condition of an order of voluntary departure entered on November 14, 2025. Petitioner's voluntary departure is imminent but, as of the date of this response, has not been effectuated. His initial detention under §1225 was lawful. Therefore, the Court should deny the writ and dismiss this action.

Background

The petition was filed October 10, 2025. Petitioner is a native of Guatemala (ECF 1 at ¶15). Petitioner alleges he has resided in the United States since 2000 (ECF id. at ¶42). On January 7, 2010, he was convicted of leaving the scene of an accident with property damage. On January 28, 2020, he was convicted of battery on a law enforcement officer and resisting arrest Orange County, Florida. On September 9, 2020, he was encountered by ICE at the Florida probation office and taken into custody. He was released on an immigration judge bond on October 7, 2020.

On August 20, 2025, he was arrested in Hamilton County, Florida and charged with fraudulent application for a driver's license or identification card and driving

while license was suspended or revoked. (ECF 1 at ¶43). ICE issued a detainer at the time of his August 20, 2025 arrest and ICE detained Petitioner that same day for the purpose of carrying out removal proceedings.

Importantly, on November 14, 2025, after filing the habeas petition, an immigration judge entered an order determining that Petitioner is removable from the United States and granting his application for voluntary departure in lieu of removal. *See* Ex. 1, Nov. 14, 2025 IJ Order. Petitioner applied for an order of voluntary departure and waived appeal of all issues. *Id.* The immigration judge ordered that Petitioner be granted pre-conclusion voluntary departure under Immigration and Nationality Act (INA) § 240B(a) in lieu of removal, on or before December 15, 2025, subject to conditions imposed by DHS. Petitioner's departure is imminent and reasonably expected to occur the week of December 8, 2025, and in any event prior to December 15, 2025.

Legal Standard

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021); *Martin v. Beto*, 397 F.2d 741, 749 (5th Cir. 1968).

Discussion

As explained below, the court lacks jurisdiction. Even if it disagrees, the relief sought by the petition is moot because of the November 14, 2025 voluntary departure order. It is reasonably anticipated that Petitioner will depart the United States the week of December 8, 2025 and no later than December 15, 2025. Furthermore, Petitioner's claims fail on the merits.

A. Habeas Return on Detention

In a habeas case, the respondent "shall make a return certifying the true cause of the detention." *Id.* ICE detained Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2) in August 2025. He is now detained as a condition of voluntary departure under 8 U.S.C. § 240.25(b).

B. Jurisdiction

In light of the voluntary departure order, the relief sought by the petition is moot. While this response will discuss the relevance of the voluntary departure order later, there is a threshold jurisdictional issue to address. The merits argument of the petition focuses on the nuances of §1225 and §1226 but there is no need to get into those nuances because the court lacks subject-matter jurisdiction over Petitioner's claims. There are three reasons why.

1. Jurisdiction Stripping

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 immigration habeas cases related to removal proceedings—as here—the Immigration and Nationality Act (“INA”) divests this Court’s jurisdiction to consider Petitioner’s claims challenging his detention pending a removal determination. 8 U.S.C. § 1252(g). There is no jurisdiction to review “any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.” 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). 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*, 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*, 709 F.3d at 1065.

The law is clear:

Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings.

Id.; see also *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“Because [the 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. So § 1252(g) strips the court’s jurisdiction over habeas petitions challenging detention pending removal proceedings.

ICE originally detained Petitioner in August 2025, following his arrest and subject to an ICE detainer, for the purpose of removal proceedings. As will be discussed in more detail below when addressing mootness, Petitioner’s detention is now a condition of his voluntary departure order—an order entered after he filed the Petition. Under *Gupta*’s binding interpretation of § 1252(g), the court plainly has no jurisdiction to address the circumstances of his original detention in August 2025. *Id.*

As the Eleventh Circuit made clear, what matters is whether the challenged conduct arose from decisions or actions to commence removal proceedings. *Gupta*, 709 F.3d at 1065 (“Each of these claims, then, challenges the actions the agents took to commence removal proceedings—exactly the claims that § 1252(g) bars from the subject-matter jurisdiction of federal courts.”). The Eleventh expressly reaffirmed this in several other decisions (both published and unpublished):

Because [plaintiff] 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*.

Alvarez, 818 F.3d at 1204; see also *Johnson*, 847 F. App'x at 802. The decisions and actions to detain Petitioner (under either § 1225 or § 1226) arise from the commencement of removal proceedings. The INA strips jurisdiction over that review. *Gupta*, 709 F.3d at 1065; 8 U.S.C. § 1252(g).

What's more, “the sole function of habeas corpus is to provide relief from unlawful imprisonment or custody, and it cannot be used for any other purpose.” *Cook v. Hanberry*, 592 F.2d 248, 249 (5th Cir. 1979). So, the only relief a habeas petitioner may receive is release. *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020). Put different, this case is only about whether ICE could detain Petitioner pending removal proceedings. *Gupta* and its progeny hold the court has no jurisdiction over such actions. The court also lacks jurisdiction on separate grounds.

2. *Zipper Clause*

The INA precludes review of “all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States” except judicial review of a final order of removal. 8 U.S.C. § 1252(b)(9). This is known as the “zipper clause” and applies where a petitioner seeks “review of an order of removal [or] the decision to seek removal.” *Canal A*, 964 F.3d at 1257; *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020). In reading this subsection alongside 8 U.S.C. § 1252(a)(5)—which limits review—courts conclude petitioners must funnel all aspects

of challenges to removal proceedings through the avenue set out in § 1252(a)(5). *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (“The REAL ID Act clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals.”); *see also Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (There is “clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals).”).

The zipper clause restrictions are broad but not unlimited. *Canal A*, 964 F.3d at 1257. Still, a claim arising from actions or proceedings brought to remove an alien clearly falls within the clause. *See Regents of Cal.*, 591 U.S. at 19.

Here, Petitioner challenges ICE’s initial detention determination. This was an action arising from ICE’s choice to carry out proceedings to remove him from the United States. The zipper clause is in full force; judicial review by this court is inappropriate and contrary to the INA. 8 U.S.C. § 1252(b)(9).

3. Conclusion

As explained, the Court lacks jurisdiction over this habeas action. Yet even if it disagrees, the petition should be denied because it is moot considering the voluntary departure order and because Petitioner’s detention is still lawful.

C. Merits

1. The petition should be denied as moot because Petitioner is currently detained as a condition of his voluntary departure.

The facts and circumstances of Petitioner’s detention as set forth in the petition have materially changed and the entry of the voluntary departure order renders the

petition moot. “[A] case becomes moot when the reviewing court can no longer offer any effective relief to the claimant.” *Gagliardi v. TJC Land Trust*, 889 F.3d 728, 733 (11th Cir. 2018) (deeming claim for injunctive relief as moot where the court could offer no effective remedy). “If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to afford the plaintiff or appellant meaningful relief, then the case becomes moot and must be dismissed.” *De La Teja v. U.S.*, 321 F.3d 1357, 1362 (11th Cir. 2003).

Here, Petitioner asks this court to address a set of facts and circumstances which no longer exist because he has applied for and received a grant of voluntary departure, is being detained as a condition of that grant of voluntary departure, and has waived appeal of all issues, including entitlement to any bond.

On November 14, 2025, on Petitioner’s application, a voluntary departure order was entered, waiving appeal of all issues. *See* Ex. 1. Voluntary departure, under 8 U.S.C. §1229c, permits an alien to voluntarily depart the United States at the alien’s own expense. As the voluntary departure order states, Petitioner must comply with any conditions imposed and his continued detention is a lawful condition and is not challenged by the petition. Petitioner has not amended his petition since the voluntary departure order was entered.

Under 8 C.F.R. § 240.25(b), Petitioner may be detained pending his departure as a condition of departure. § 240.25(b) provides that certain conditions, including specifically “continued detention pending departure,” may be imposed to the grant of

voluntary departure. The conditions are to “[e]nsure the alien’s timely departure from the United States.” *Id.* In *Al-Siddiqi v. Achem*, 531 F.3d 490 (7th Cir. 2008), the court affirmed denial of an alien’s habeas petition and held that an immigration judge can impose conditions such as continued detention in cases of voluntary departure. *Id.* at 495. In *Matter of M-A-S*, 24 I&N Dec. 762 (BIA 2009), the issue on appeal was whether an Immigration Judge may order an alien detained until departure as a condition of a grant of voluntary departure. *Id.* at 763. The Board of Immigration Appeals (“BIA”) held that continued detention was allowed in the instance of voluntary departure and also rejected the notion of setting a bond. *Matter of M-A-S*, 24 I&N at 766-67. In Petitioner’s case, the voluntary departure order specifically references *Matter of M-A-S*, 24 I&N Dec. 762 and the fact that Petitioner must comply with any conditions imposed by DHS. Under the voluntary departure order and the authority afforded under 8 C.F.R. § 240.25, DHS has authority to continue detention to ensure Petitioner’s timely departure.

A similar issue was considered by *De La Teja*, where the petitioner challenged the district court’s denial of his writ of habeas corpus. *Id.* at 1357. The petitioner was initially detained under § 1226. *Id.* at 1362. Subsequently, after the district court’s ruling denying the habeas petition, a removal order was entered and not appealed by the alien. *Id.* The Eleventh Circuit concluded that, once the removal order was final, the petitioner was no longer being detained under § 1226, but instead under 8 U.S.C. § 1231(a) which controls detention and removal of an alien subject to a final order of

removal. *Id.* at 1363. The court stated “Because the Attorney General [is] no longer acting pursuant to § 1226(c), it is unnecessary and altogether inappropriate for us to take up the question addressed by the district court . . .” *Id.* Consequently, the Eleventh Circuit deemed his appeal moot. While *De La Teja* concerned the procedural posture of an appeal of the district court’s ruling, the result is essentially the same—Petitioner is no longer detained under §1225 but instead as a condition of his voluntary departure under 8 U.S.C. §1229c and 8 C.F.R. §240.25(b).

The grounds advanced by Petitioner no longer provide a basis for habeas relief. Additionally, his detention as a condition of voluntary departure, are not challenged in the petition. It is anticipated that his departure will be effectuated the week of December 8, 2025 and no later than December 15, 2025. Having waived all appeal rights, he is not entitled to a bond or bond redetermination, and a bond would be improper where he is detained as a condition of voluntary departure. *See Matter of M-A-S*, 24 I&N at 766-67. He is no longer able to argue a violation of due process where he applied for and received an order of voluntary departure subject to the lawful condition of detention.

In sum, the petition requests relief based on circumstances which are no longer at issue and seeks relief contrary to the grant of voluntary departure that Petitioner requested and received. The court can no longer offer any effective relief to Petitioner on the grounds stated in the petition and the court should deny the Petition as moot considering the voluntary departure order.

2. Detention and Bond Hearing - §1225 v. §1226.

Assuming the petition is not denied for lack of jurisdiction or mootness, at bottom, Petitioner alleges ICE’s decision to detain him initially under § 1225 rather than § 1226 was inappropriate, deprived his due process, and withheld a bond hearing. These claims fail as a matter of law because he was lawfully detained under § 1225 in August 2025 and, as discussed above, is now lawfully detained under 8 U.S.C. § 240.25(b). To the extent the court finds it necessary to address the basis of his initial detention, the following argument addresses the §1225/§1226 issue.

To interpret the relevant parts of the INA, courts first turn to the “plain meaning of the statute.” *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). If the statutory text is clear, the analysis ends. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 674 (2020).

The statutory scheme in § 1225(a) provides: “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); *Thuraissigiam*, 591 U.S. at 140. Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) fall under the § 1225(b)(2) catchall. *Jennings*, 583 U.S. at 287.

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the “alien shall be detained for a proceeding under section 1229a”—i.e., full removal proceedings—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 plainly, these subsections “mandate detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE detained Petitioner under § 1225(b)(2). The parties do not dispute he entered the United States illegally and without any authorization. Petitioner’s detention pending his removal proceedings is not unlawful; rather, it is statutorily required. 8 U.S.C. § 1225(b)(2)(A); see *Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025). Moreover, the current basis for his detention is to effectuate his voluntary departure.

Petitioner argues § 1225(b) applies only to people arriving at ports of entry or who recently entered the United States (ECF 1 at ¶¶40-41). But nothing in the statutory language supports this conclusion. Furthermore, Petitioner fails to address the aliens expressly contemplated by § 1225(a)(1)—defining applicants as a present alien “who has not been admitted or who arrives in the United States.” Where the statutory text is otherwise clear, courts cannot add words or make up exceptions. *King v. Burwell*, 576 U.S. 473, 486 (2015).

Sections 1225(a)(1) and (b)(2) are unambiguous. There are no geographic qualifiers; nor are any time limitations imposed. 8 U.S.C. § 1225(b)(2). Notably, Congress included such time limitations in other parts of the same statute. For instance, 8 U.S.C. § 1225(b)(1)(A)(iii)(II)—enacted contemporaneously with

§ 1225(b)(2)—applies a two-year continuous physical presence requirement. When Congress includes language in one part of a statute but omits it in another, it does so intentionally. *E.g.*, *Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1168 (11th Cir. 2003). Under these principles, the Court cannot read an additional “place of detention” or “period of residence” requirement into § 1225(b)(2) when it simply isn’t there. Short of legislating, the Court cannot impose limitations on § 1225(b)(2) that Congress did not include. *See Germain v. U.S. Att’y Gen.*, 9 F.4th 1319, 1325 (11th Cir. 2021).

As discussed, an alien’s place of detention or period of residence is irrelevant under the plain language. What is relevant, however, is an alien’s manner of entry. 8 U.S.C. § 1225(a)-(b). Congress members said as much when amending the INA. *See Sturgeon v. Frost*, 587 U.S. 28, 54 (2019) (“The legislative history (for those who consider it) confirms, with unusual clarity, all we have said so far.”). The statutory scheme that § 1225 and § 1226 replaced was structured so aliens who entered the United States undetected retained certain benefits—such as the availability of bond—where those who presented themselves at the border did not:

This subsection is intended to replace certain aspects of the current “entry doctrine,” under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry. Hence, the pivotal factor in determining an alien’s status will be whether or not the alien has been lawfully admitted.

H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Recognizing that such a scheme incentivized evasion over presenting oneself at a port of entry, Congress set out to restructure the law to distinguish between deportability—applicable to admitted

aliens—and inadmissibility—applicable to those present without admission. *Id.* at 226. So, aliens who enter surreptitiously “will not be considered to have been admitted.” *Id.* Petitioner’s reading seeks to retroactively nullify this legislative fix and once again restore incentives to circumvent rather than comply with the INA.

Petitioner contends his detention under § 1225 is improper and his detention should be under § 1226. But Petitioner did not meet his burden to establish detention under § 1226 should apply to him. Section 1226 is far broader than § 1225. Specifically, § 1226 applies to any “alien.” 8 U.S.C. § 1226(a). An “alien” is “any person not a citizen or national of the United States.” *Id.* § 1101(a)(3). Meanwhile, the phrase “applicant for admission” in § 1225(b)(2) has distinct meaning, and not every single alien entering without inspection falls under this provision. Rather, the facts and circumstances concerning Petitioner demonstrate he is an applicant for admission under § 1225(b)(2).

Petitioner illegally entered the United States in 2000. (ECF 1 at ¶42). He admittedly has no permission or status to remain in this country, was determined to be removable under the voluntary departure order and is presently in the process of voluntary departure. So, it’s undisputed Petitioner has not been admitted to the United States. Put different, Petitioner must be an applicant for admission if he wanted to stay here. *Vargas Lopez*, 2025 WL 2780351, at *9 (Petitioner “wishes to stay in this country. This makes [him] an ‘applicant for admission,’ consistent with the conclusion of the BIA in *Hurtado* and *Jennings*.”). The alternative would be seeking an Order to

somehow remain unlawfully in the United States. *Id.* (That petitioner “illegally remained in this country for years does not mean that he is suddenly not an ‘applicant for admission’ under § 1225(b)(2).”); *Hurtado*, 29 I&N at 221 (“If he is not admitted to the United States (as he admits) but he is not “seeking admission” (as he contends), then what is his legal status?”). Under the voluntary departure order, he is no longer entitled to remain in the United States.

To be clear, any alien intending to stay in the United States on any permanent basis must be admitted even if that’s twenty-five after arriving. In the context of immigration law, “admission” is not like sneaking into a second showing at the movie theater where entry is de facto admission. Rather, this is a legal term of art. *Matter of Lemus Losa*, 25 I. & N. Dec. 734, 743 n.6 (BIA 2012) (noting “seeks admission” used by Congress “as a term of art”). The terms “admission” or “admitted” here mean “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).

Congress knows how to use a term of art. *E.g.*, *FAA v. Cooper*, 566 U.S. 284, 292 (2012) (“[I]t is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.” (cleaned up)). Petitioner may have been living in the United States illegally for twenty-five years; but he was never admitted—which is what makes his presence unlawful in the first instance. 8 U.S.C. § 1182(a)(6)(A)(i) (inadmissibility for presence “without being

admitted”). The INA treats aliens as seeking admission even if they entered illegally and never formally applied. 8 U.S.C. § 1225(a)(1); *Lemus Losa*, 25 I. & N. Dec. at 743 n.6 (Unlawful entrants “deemed *constructive* applicants for admission by operation of” § 1225(a)(1).). Legislative word choices—especially terms of art—must have meaning. Congress chose to define “applicants for admission” as “[a]n alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1).

The recent enactment of the Laken Riley Act bolsters this conclusion. *See* Pub. L. No. 119-1, 139 Stat. 3 (2025). There, the categories of individuals subject to mandatory detention expanded to include those who entered the United States and were charged as inadmissible under § 1182(a)(6)(A)(i) or (a)(7) and have committed—or been charged or convicted of—certain specified crimes. *See* 8 U.S.C. § 1226(c)(1)(E). Were “applicant for admission” under § 1225 interpreted as narrow as Petitioner argues, then there would be no need to pass Laken Riley. Those aliens now covered by § 1226(c)(1)(E) would have already been subject to mandatory detention. Even if there are redundancies, those “are common in statutory drafting” and provide no “license to rewrite or eviscerate another portion of the statute contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 229 (2020) (“The Court has often recognized: Sometimes the better overall reading of the statute contains some redundancy.” (cleaned up)).

Finally, the fact that longstanding practice may have differed is not dispositive. The Constitution empowers the Judiciary to exercise judgment regarding the interpretation of laws independent from the political branches. U.S. Const. art. 3, § 2,

cl. 1; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). The question for this Court is not ICE's historical practice; instead, the inquiry is the correct statutory interpretation. As discussed, the best reading of the INA is what its words say—confirming ICE properly detained Petitioner under § 1225(b)(2) at the time of his Petition and now lawfully detains him as a condition of the voluntary removal order.

There are many recent decisions adverse to ICE's § 1225 position here, including decisions by courts in this district. *See e.g. Bravo v. Noem*, 2:25-cv-1046-SPC-DNF, 2025 WL 3496191 (M.D. Fla. Dec. 5, 2025); *Riquis v. Mordant*, 2:25-cv-1028-SPC-NPM, 2025 WL 3502525 (M.D. Fla. Dec. 5, 2025); *Erazo v. Hardin*, 2:25-cv-891-KCD-DNF, 2025 WL 3187136 (M.D. Fla. Nov. 14, 2025); *Carcamo v. Noem*, 2:25-cv-00922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025). There are, however, decisions in several other districts in support of ICE's text-based argument as well. *Vargas Lopez v. Trump* thoroughly addressed this issue and agreed with ICE's reasoning. No. 8:25CV526, 2025 WL 2780351, at *7-10 (D. Neb. Sept. 30, 2025). Other courts came to the same conclusion. *See e.g. Oliveira v. Patterson*, 6:25-cv-01463-DCJ-DJA (ECF 17), 2025 WL 3095972, *7 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, 6:25-cv-01467, 2025 WL 3048926, *7 (W.D. La. Oct. 31, 2025); *Kum v. Ross, et al.*, 6:25-cv-00451-DCJ-CBW, 2025 WL 3113646 (W.D. La. Oct. 22, 2025) *adopted by* 2025 WL 3113644 (W.D. La. Nov. 6, 2025); *Rojas v. Olson*, Case No. 25-cv-1437-bhl (ECF 20), 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351 at *4-9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-

23250CAB-SBC, 2025 WL 2730228 at *4–5 (S.D. Cal. Sept. 24, 2025); and *Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 3131942, *2 (E.D. Mo. Nov. 10, 2025). And the BIA specifically explained this rationale in *Hurtado*, 29 I&N Dec. 216.

Recently, a district court in California granted class certification and partial summary judgment for the plaintiffs in that case. See *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), ECF 81 and 82. However, those rulings have no effect here as the court in *Bautista* but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction, which would not be permitted by law. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. Until and unless the *Bautista* court issues a class-wide declaratory judgment or injunction, the *Bautista* court's opinion and partial grant of summary judgment does not constitute a judgment. See, e.g., Fed. R. Civ. P. 54(b) (second sentence). As such, they do not have preclusive effect with respect to other cases. Rather, there is currently no declaratory relief with respect to other cases filed by people who are now *Bautista* class members raising claims concerning the proper interpretation of the mandatory detention provisions.

As explained, Petitioner's detention under § 1225(b)(2) is lawful. The INA mandates his detention, as does the voluntary departure order.

Conclusion

The court should deny the petition and dismiss this action because it lacks jurisdiction, the petition is mooted by the voluntary departure order, and because Petitioner's initial detention under §1225 was lawful.

Dated: December 9, 2025

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

/s/ Richard L. Lasseter
Richard L. Lasseter
Assistant United States Attorney
Florida Bar No. 0060365
300 North Hogan Street, Suite 700
Jacksonville, FL 32202-4270
Telephone No. (904) 301-6258
Facsimile No. (904) 301-6240
Email: richard.lasseter@usdoj.gov
Attorneys for federal Defendants