

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ERNESTO ALFONSO PEREZ,

Petitioner,

v.

Case No. 2:25-cv-947-SPC-DNF

KRISTI NOEM, Secretary, Department of
Homeland Security (“DHS”), TODD
LYONS, Acting Director, Immigration
and Customs Enforcement (“ICE”), et al.,
(all official capacity),

Respondents.

_____ /

Response to Habeas Petition

The Federal Respondents respond to Petitioner Ernesto Alfonso Perez’s Petition for Writ of Habeas Corpus (Doc. 1). *See* (Doc. 7). The Court lacks jurisdiction. Apart from that, Alfonso’s detention is lawful. So the Court should deny the writ and dismiss this action.

Background

Alfonso is a native of Cuba who unlawfully entered the United States in August 2022. (Ex. 1 at 2-3). Almost immediately, DHS arrested Alfonso in Arizona near the border. (Ex. 1 at 2-3). ICE served him with a Form I-862, Notice to Appear (“NTA”), Form I-200, Warrant of Arrest (“WA”), and Form I-220A, Order of Release on Recognizance (“OREC”). (Exs. 2; 3; 4).

The NTA set an initial appearance for July 2023. (Ex. 2 at 1). It charged Alfonso

with unlawful presence without admission or parole under 8 U.S.C. § 1226. (Ex. 2 at 1). The OREC permitted his release pending full removal proceedings under 8 U.S.C. § 1229a. (Exs. 4 at 1; 5 at 1).

In November 2022, Alfonso filed a Form I-589, Application for Asylum and Withholding of Removal with U.S. Citizenship and Immigration Services (“USCIS”). (Doc. 1-2 at 11-12). In September 2023, USCIS denied his Asylum Application for lack of jurisdiction due to ongoing removal proceedings with an immigration judge (“IJ”). (Ex. 6 at 1); *see also* 8 C.F.R. §§ 208.2(b); 1208.2(b).

In October 2025, Alfonso appeared before the IJ for his master calendar hearing. (Ex. 7 at 1). At that hearing, ICE moved to dismiss his removal proceedings. (Ex. 7 at 1). Alfonso opposed the motion and the IJ heard argument. (Ex. 7 at 1). Ultimately, the IJ agreed with ICE and dismissed the removal proceedings. (Ex. 7 at 1-2). Alfonso has until November 7, 2025, to appeal that decision to the Board of Immigration Appeals (“BIA”). (Ex. 7 at 2).

After this hearing, ICE took Alfonso into detention for expedited removal proceedings under 8 U.S.C. § 1225(b)(1). (Ex. 8 at 2-3). At that point, Alfonso refused to answer questions from ICE and requested a lawyer. (Ex. 9 at 1-3). ICE determined Alfonso was inadmissible as an applicant for admission without valid immigration documents under 8 U.S.C. § 1182(a)(7)(a)(i)(I). (Ex. 10 at 1-2). As a result, ICE entered an expedited order of removal under 8 U.S.C. § 1225(b)(1). (Ex. 10 at 1).

Currently, ICE is detaining Alfonso at “Alligator Alcatraz.” (Doc. 1 at 2).

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, the Court lacks jurisdiction. Even if it disagrees, however, Alfonso’s claims fail on the merits. Before getting to those matters, ICE must clarify its basis of detention. 28 U.S.C. § 2243.

A. Habeas Return on Detention

In a habeas case, the respondent “shall make a return certifying the true cause of the detention.” *Id.* That offered basis of detention is conclusive unless petitioner proves, or the Court finds, it is not true. *Id.* § 2248.

ICE is detaining Alfonso under the mandatory detention provisions of 8 U.S.C. § 1225(b)(1). Alfonso is free to contend his detention under § 1225 is unlawful. But § 1225(b)(1)—not § 1226—is the certified basis on which ICE is detaining Alfonso. No evidence suggests otherwise; in fact, the undisputed evidence establishes ICE’s basis.

B. Jurisdiction

There is no need to get into the nuances of § 1225 and § 1226 since the Court lacks subject-matter jurisdiction over Alfonso’s claims. There are four reasons why.

1. *Jurisdiction Stripping Under § 1252(a)*

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 Alfonso’s claims challenging the dismissal of his removal proceedings and decision to seek expedited removal under § 1225(b)(1). 8 U.S.C. § 1252(a)(2)(A). This is a different type of jurisdiction-stripping (applicable only to expedited removal) than the Court has been seeing recently.

The INA specifically stripped the Court’s jurisdiction (via habeas or otherwise) to review:

- (i) . . . any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1) . . . ,
- (ii) . . . a decision by the Attorney General to invoke the provisions of such section,
- (iii) the application of such section to individual aliens, including the determination made under section 1225(b)(1)(B) . . . , or
- (iv) . . . procedures and policies adopted by the Attorney General to implement the provisions of section 1225(b)(1).

8 U.S.C. § 1252(a)(2)(A). No amount of wordplay could characterize this case as anything other than a direct challenge on the implementation, invocation, application, and/or policies regarding § 1225(b)(1) as applied to Alfonso. 8 U.S.C.

§ 1252(a)(2)(A)(i)-(iv).

These jurisdiction-stripping provisions are all subject to limited exceptions for review set out in § 1252(e). Specifically, habeas cases involving “any determination made under section 1225(b)(1) . . . shall be limited to determinations of—”

- (A) whether the petitioner is an alien,
- (B) whether the petitioner was ordered removed under such section, and
- (C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 1157 of this title, or has been granted asylum under section 1158 of this title, such status not having been terminated, and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 1225(b)(1)(C) of this title.

8 U.S.C. § 1252(e)(2). None of these circumscribed exceptions apply to Alfonso. It is undisputed he is an alien, (Doc. 1 at 5); before this lawsuit, he was ordered removed under § 1225(b)(1), (Ex. 10); and he cannot prove any lawful admission, grant of asylum, or any other statutory ground for the Court’s review. In short, there is nothing within the Court’s jurisdiction to review. Congress broadly stripped jurisdiction over this exact case.

Crucially, courts cannot review the wisdom of these ICE determinations. For example, “In determining whether an alien has been ordered removed under section 1225(b)(1) of this title, the court’s inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner.” *Id.* § 1252(e)(5). “There shall be no review of whether the alien is actually inadmissible or entitled to any relief from

removal.” *Id.* Again, here, it is undisputed the expedited removal order was issued and related to Alfonso. (Ex. 10). So even if the Court could determine Alfonso was entitled to relief from removal—which he isn’t—it still lacks jurisdiction to do so. 8 U.S.C. § 1252(e)(5).

What’s more, “review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia.” 8 U.S.C. § 1252(e)(3)(A). Put different, one cannot challenge the general implementation of expedited removal under § 1225(b)(1) in the Middle District. Any broad policy or practices challenge to application of expedited removal can only be pursued in Washington. 8 U.S.C. § 1252(e)(3)(A); *e.g.*, *Las Americas Immigrant Advocacy Ctr. v. Wolf*, 507 F. Supp. 3d 1, 19 (D.D.C. 2020).

Several decisions address similar jurisdictional questions. *Noori v. Larose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *7-8 (S.D. Cal. Oct. 1, 2025); *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *6-7 (W.D.N.Y. July 16, 2025). Those cases, however, concerned dissimilar aliens on humanitarian parole or in full removal proceedings. Further, those petitioners did not challenge the unreviewable discretionary decision to pursue expedited removal. Here, Alfonso asks the Court to rule that ICE could not pursue expedited removal, undo his removal order, and release him into the United States with no legal status. The Court has no jurisdiction to do any of these things.

As explained, there is no jurisdiction given the INA’s limitations set out in § 1252(a)(2)(A), (e).

2. *Jurisdiction Stripping Under § 1252(g)*

In immigration habeas cases related to removal proceedings—as here—the Immigration and Nationality Act (“INA”) divests this Court’s jurisdiction to consider Alfonso’s claims challenging his detention pending a removal determination. 8 U.S.C. § 1252(g). “APA review does not apply when ‘(1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law.’” *Kanapuram v. USCIS*, 131 F.4th 1302, 1306 (11th Cir. 2025) (quoting 5 U.S.C. § 701(a)).

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.

It is undisputed that ICE detained Alfonso to commence expedited removal proceedings. So now, ICE is detaining Alfonso “while awaiting a removal determination.” *Gupta*, 709 F.3d at 1065. Under *Gupta*’s binding interpretation of § 1252(g), the Court plainly has no jurisdiction. *Id.* Alfonso’s entire case is based on whether ICE is using the correct statute to pursue removal proceedings (i.e., § 1225(b)(1)). Congress stripped the Court’s jurisdiction to review those discretionary decisions. In *Alvarez*, the Eleventh specifically held as much. *Alvarez*, 818 F.3d at 1203 (Jurisdiction stripped for “considering whether the agency should have used a different statutory procedure to initiate the removal process.”).

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 Alfonso (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). Alfonso decided to pursue habeas seeking only declarations and orders related to his release from confinement. (Doc. 1 at 13). Put different, this case is only about whether ICE can detain Alfonso during removal. *Gupta* and its progeny hold the Court has no jurisdiction over such actions. Regardless of that broad jurisdictional bar, the Court has no habeas jurisdiction to prohibit transfer or institute a different type of removal proceedings. See 8 U.S.C. § 1231(g)(1); *Rathod v. Barr*, No. 1:20-CV-161-P, 2020 WL 1492790, at *2 (W.D. La. Mar. 5, 2020), *R&R adopted*, 2020 WL 1501891 (Mar. 25,

2020) (“Claims regarding prison transfers are generally not cognizable under § 2241.”).

Full disclosure: Judges Dudek and Steele issued Orders relevant to this question. Judge Steele’s case, *Brito Matom v. ICE*, No. 2:25-cv-648-JES-NPM, 2025 WL 2577424 (M.D. Fla. Sept. 5, 2025), is easily distinguished because ICE served Alfonso with an NTA well before this detention and issued an expedited removal order. Judge Dudek’s case, *Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-DNF, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025), is also different. In *Hernandez Lopez*, the core issue was petitioner’s classification as detained under § 1225(b)(2) while in full removal proceedings. Alfonso’s circumstances entirely differ; he was already ordered removed through expedited proceedings under § 1225(b)(1). Those other cases also had ongoing full removal proceedings; whereas, Alfonso has an expedited order of removal and the IJ granted dismissal of his full removal proceedings. In sum, the Court’s dismissal here for lack of jurisdiction would be consistent with *Brito Matom* and *Hernandez Lopez*.

The Court also lacks jurisdiction on separate grounds.

3. *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, Alfonso challenges ICE’s 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).

There is one final jurisdictional issue.

4. *Failure to Exhaust*

Alfonso has yet to exhaust his administrative remedies. In fact, he is admittedly still within the time for a BIA appeal. (Doc. 1 at 7). The Court should not engage in concurrent appellate review on an IJ determination on dismissal of removal proceedings. *See Mata Velasquez*, 2025 WL 1953796, at *7 (“The government is correct that this Court does not have jurisdiction to decide the question—currently pending before the BIA—of whether the IJ properly granted the government’s motion to

dismiss the section 240 proceedings.”).

Notably, Alfonso’s order of expedited removal, (Ex. 10), is “a final order of removal.” *Lopez v. Garland*, 40 F.4th 996, 1001 (9th Cir. 2022).¹ As a result, he may directly challenge the merits of the decision to remove him to the Eleventh Circuit. 8 U.S.C. § 1252(a)(1), (b)(2). Instead of pursuing the proper avenue for relief, he filed a roundabout habeas case here that asks the Court to ignore its jurisdictional limitations and make broad rulings on whether Alfonso should be removed. The Court should not entertain such questions—especially given the availability of other direct relief.

5. *Conclusion*

As explained, the Court lacks jurisdiction over this habeas action. Yet even if it disagrees, detention is still lawful.

C. **Merits**

Alternatively, the Petition fails for two reasons: (1) Alfonso does not identify a violation of law supporting his release; and (2) detention under § 1225(b)(1) is appropriate to the extent that the Court can review it.

1. *No Identified Unlawful Action*

The Supreme “Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). So “Congress has the authority to detain aliens suspected of entering

¹ See also *Lomeli v. Birkholz*, No. CV 23-9461-MRA (JPR), 2024 WL 3528677, at *4 (C.D. Cal. June 18, 2024); *Nasrallah v. Barr*, 590 U.S. 573, 579 (2020) (The “final order of removal is a final order concluding that the alien is deportable or ordering deportation.” (cleaned up)).

the country illegally pending their deportation hearings.” *Reno v. Flores*, 507 U.S. 292, 306 (1993). What’s more, discretion over immigration detention decisions may be delegated to the Attorney General. *Id.*

ICE exercised its delegated discretion to pursue expedited removal proceedings. That decision is without a doubt unreviewable for the reasons above. As a result of that discretionary choice, Alfonso is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

Understanding he cannot challenge the above, Alfonso recasts theories to indirectly challenge unreviewable actions. In doing so, he must identify deprivation of a liberty interest. Several of his alleged grounds are facially invalid since he has no liberty interest in such matters. Specifically, Perez has no liberty interest in a particular adjudication of his Form I-589. *Kanyan v. USCIS*, No. 24-CV-8564 (RPK), 2025 WL 1489807, at *4 (E.D.N.Y. May 22, 2025) (noting no liberty interest in manner of adjudicating Form I-589). Nor does he have a liberty interest in the type of removal proceedings applied.

To be clear, aliens have a liberty interest to be free of civil detention; yet that interest does not eliminate the Government’s power to detain by law—e.g., under § 1225(b)(1)’s mandatory detention provisions. So Alfonso must show the law was (mis)applied to him in such a way that ICE deprived him of a liberty interest.

The only cognizable interest that Alfonso may have had here was revocation of his conditional parole. In 2022, ICE released Alfonso under an OREC. This was conditional parole under § 1226(a)(2)(B). *E.g.*, *Rosado v. Figueroa*, No. CV 25-02157

PHX DLR (CDB), 2025 WL 2337099, at *7 (D. Ariz. Aug. 11, 2025). A few weeks ago, ICE necessarily revoked parole when it dismissed the full removal proceedings before pursuing expedited removal under § 1225(b)(1) and detaining Alfonso. It did so after a hearing before the IJ to determine whether it could dismiss the proceedings to pursue expedited removal.

Under § 1226, ICE has complete discretion to revoke conditional parole.² § U.S.C. § 1226(b). ICE can revoke parole “at any time” then “the alien may be taken into physical custody and detained.” § C.F.R. § 236.1(c)(9); *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019). At most, the due process protections owed here would be notice and an opportunity to be heard. *See S.D.B.B. v. Johnson*, No. 1:25-cv-882, 2025 WL 2845170, at *6-10 (M.D.N.C. Oct. 7, 2025).

Alfonso received notice and opportunity to be heard at a hearing before the IJ before being taken into custody. Disagreement with the IJ’s decision is a matter for appeal to the BIA; likewise, any dispute with his order of expedited removal can be reviewed by the Eleventh Circuit.

What’s more, Alfonso has other avenues for review available that satisfy any due process requirements regarding an asylum claim. He asserts a violation of due process because he will not be able to pursue his asylum claim within full removal proceedings. Yet review of an asylum claim by an IJ is available even to those aliens in expedited removal. *Thuraissigiam*, 591 U.S. at 109-10 (explaining process including

² The Attorney General’s discretion on these matters has long been delegated to individual ICE officers. *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 171 (D.D.C. 2015).

that “the applicant may appeal to an immigration judge, who can take further evidence and shall make a de novo determination” (cleaned up)). In short, this is an imagined deprivation even if it were cognizable.

Alfonso’s failure to identify an unlawful action dooms his Petition.

2. *Dispute Over § 1225(b)(1) Designation Unreviewable Here*

At bottom, Alfonso alleges ICE’s decision to detain him under § 1225(b)(1) was inappropriate, deprived his due process, and withheld his preferred asylum adjudication. These claims fail because he cannot challenge that designation here.

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 Alfonso under § 1225(b)(1). The parties do not dispute he entered the United States illegally and without any authorization. Alfonso’s detention pending his removal proceedings is not unlawful; rather, it is statutorily required. 8 U.S.C. § 1225(b)(1)(B)(IV); see *Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

Alfonso argues § 1225(b)(1) does not apply to aliens previously paroled and placed in full removal proceedings. (Doc. 1 at 8). To be sure, he cites recent cases standing for that proposition. ICE disagrees with that reasoning, yet it need not respond here as the Court lacks jurisdiction to review that dispute.

Again, Congress expressly stripped this Court’s jurisdiction over “implementation,” “decision,” and “application” of § 1225(b)(1) to Alfonso. 8 U.S.C. § 1252(a)(2)(A)(i)-(iii). The only merits issues on § 1225(b)(1) within the Court’s possible habeas jurisdiction are set out in § 1252(e)(2). On those § 1225(b)(1) questions, there is no dispute Alfonso qualifies for the designation. Specifically, he is an alien (§ 1252(e)(2)(A)) who was ordered removed under § 1225(b)(1) (§ 1252(e)(2)(B)) and has not been granted asylum (§ 1252(e)(2)(C)). To answer any other question here would simply an extra-jurisdictional advisory opinion on interesting questions of INA interpretation.

As explained, Alfonso’s detention under § 1225(b)(1) is lawful to the limited

possible extent on this Court's review. So the INA mandates his detention.

Conclusion

For those reasons, the Court must deny the Petition and dismiss this action.

Date: October 30, 2025

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney




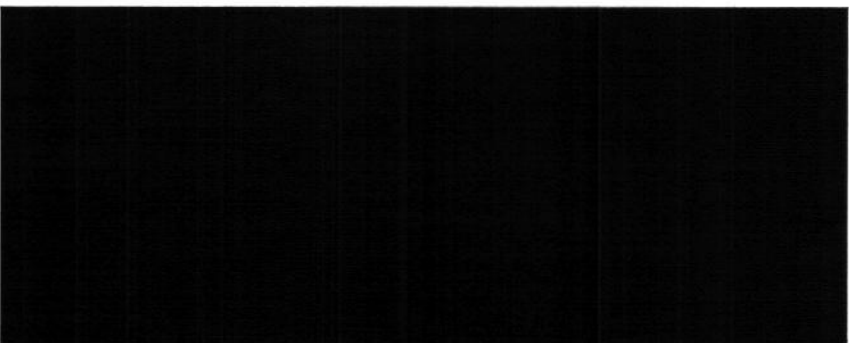
Kevin R. Huguelet
Assistant United States Attorney
Florida Bar Number 125690
Kevin.Huguelet@usdoj.gov
2110 First Street, Suite 3-137
Fort Myers, Florida 33901
(239) 461-2237

(Lead Counsel for Respondents)

U.S. Department of Homeland Security

Subject ID: 379206236

Record of Deportable/Inadmissible Alien

Family Name (CAPS) ALFONSO PEREZ, ERNESTO		First	Middle	Sex M	Hair BLK	Eyes BRO	Complexion MED
Country of Citizenship CUBA	Passport Number and Country of Issue	File Number CASE No: YDS2208000473 558		Height 70	Weight 216	Occupation LABORER	
IT [REDACTED]				Scars and Marks See Narrative			
Date, Place, Time, and Manner of Last Entry 08/08/2022, 0330, 11 mile(s) NE of SLU, PWA (AFOOT)			Passenger Boarded at	F.B.I. Number [REDACTED]		<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input checked="" type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated	
Number, Street, City, Province (State) and Country of Permanent Residence [REDACTED], CUBA				Method of Location/Apprehension PB			
Date of Birth 04/01/1989	Age: 33	Date of Action 08/10/2022	Location Code YUM/YUS	At/Near SAN LUIS, AZ	Date/Hour 08/08/2022 0340		
City, Province (State) and Country of Birth CAMAGUEY, CUBA		AR <input checked="" type="checkbox"/>	Form: (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>	By VICTORIA GARCIA			
NIV Issuing Post and NIV Number		Social Security Account Name		Status at Entry PWA Mexico		Status When Found TRAVEL/SEEKIN G	
Date Visa Issued		Social Security Number		Length of Time Illegally in U.S. AT ENTRY			
Immigration Record NEGATIVE			Criminal Record None Known				
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate) See Narrative					Number and Nationality of Minor Children 2 - CUBA		
Father's Name, Nationality, and Address, if Known See Narrative			Mother's Present and Maiden Names, Nationality, and Address, if Known See Narrative				
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks See Narrative	Charge Code Words(s) I6A			
Name and Address of (Last)(Current) U.S. Employer		Type of Employment	Salary	Employed from/to Hr			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which constitute a violation and/or criminal violation. Indicate means and route of entry (if known).)							
FINS #: [REDACTED]		I77 #: [REDACTED]		DNA Envelope #: [REDACTED]			
							
ARREST COORDINATES:							

Latitude: 32.642234							
Longitude: -114.764217							
CONSEQUENCE DELIVERY SYSTEM:							

Classification: FIRA							
Alien has been advised of communication privileges			08/10/2022 (Date/Initials)	ANTONIO MOLINA BORDER PATROL AGENT (Signature and Title of Immigration Officer)			
Distribution:		Received: (Subject and Documents) (Report of Interview)					
Original to "A" File		Officer: ANTONIO MOLINA					
		on: August 10, 2022 at 0257 (time)					
		Disposition: Notice to Appear Released (I-862)					
		Examining Officer: PABLO GARCIA-PAYAN					

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