

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JUAN MIGUEL GOMEZ-PENA,

Petitioner,

v.

Case No.: 3:25-cv-1287-MMH-MCR

KRISTI NOEM, in her official capacity as Secretary of Department of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; DEREK GORDO, in his official capacity as Acting Executive Associate Director of Homeland Security Investigations, MARCOS CHARLES in his capacity as the Executive Associate Director of Enforcement and Removal Operations; and SIRCE E. OWEN, in her capacity as the Acting Director of the Executive Office for Immigration Review,

Respondents.

_____ /

RESPONDENTS' RESPONSE TO EMERGENCY
PETITION FOR HABEAS CORPUS

Respondents, Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security (DHS), Todd M. Lyons, in his official capacity as Acting Director of United States Immigration and Customs Enforcement (ICE), Derek Gordo, in his official capacity as Acting Executive Associate Director of Homeland Security Investigations (HSI) ICE, Marcos Charles, Acting Executive Associate Director, Enforcement and Removal Operations (ERO), ICE, and Sirce E. Owen,

Acting Director, Executive Office for Immigration Review (EOIR) (“Federal Respondents”), respond to Petitioner Juan Miguel Gomez-Pena’s Emergency Petition for Writ of Habeas Corpus (Docs. 1, 5-1). The Court lacks jurisdiction here. Apart from that, Gomez-Pena’s detention is lawful. So, the Court should deny the writ and dismiss this action.

PRELIMINARY STATEMENT

On October 27, 2025, Petitioner, who is a native and citizen of Mexico, filed the instant Emergency Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his detention at the Baker County Detention Center in Macclenny, Florida, and seeking an immediate bond hearing or release from detention. *See Doc. 5-1 at 2-3*. By Order dated November 3, 2025, this Court ordered service of the Petition and directed Respondents to respond within 60 days from the date of service. *Doc. 5*. Further, by Order dated November 13, 2025, the Court granted Petitioner’s motion to modify and advance the deadline to respond, setting the response deadline as December 8, 2025. *Doc. 8*. Because the decision to detain Petitioner is not subject to review, the Court lacks jurisdiction to entertain the relief sought or, alternatively, Petitioner fails to state a claim upon which relief can be granted.

FACTUAL BACKGROUND

Petitioner is a Mexican citizen. *See Doc. 5-1 at 3* and 5. Petitioner entered the United States without inspection more than twenty years ago. *Doc. 5-1 at ¶ 55*, p. 16-17. Petitioner was arrested on September 17, 2025, by local law enforcement in

Woodbine, Georgia. *Id.* Thus, as of October 27, 2025, Gomez-Pena had been in custody for approximately 40 days.

ICE initiated removal proceedings against Petitioner. On October 21, 2025, the immigration judge entered an order denying Petitioner's request for bond, concluding that he lacked the authority to hear bond requests or grant bond to aliens present in the United States without admission and in removal proceedings. *See* Exhibit 1. Petitioner filed the instant action on October 27, 2025. Doc. 1. On November 8, 2025, Petitioner was transferred to the Karnes County Immigration Processing Center located in Karnes City, Texas. *See* Exhibit 2, Form I-830. Petitioner was scheduled for a master hearing before the immigration court on December 11, 2025, the master hearing has been rescheduled to December 29, 2025. *See* Exhibit 3, Notice of Internet-Based Hearing dated Nov 12, 2025; Exhibit 4, Notice of Internet-Based Hearing dated Dec 3, 2025. As of today, Petitioner has been detained for approximately 82 days.

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, Gomez-Pena'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.* ICE is detaining Gomez-Pena under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). Gomez-Pena is free to contend his detention under § 1225 is unlawful or argue he should instead be detained under § 1226(a). But § 1225(b)(2)—not § 1226—is the certified basis on which ICE is detaining Gomez-Pena.

B. Jurisdiction

There is no need to get into the nuances of § 1225 and § 1226 since the Court lacks subject-matter jurisdiction over Gomez-Pena'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

Gomez-Pena'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.

ICE detained Gomez-Pena to initiate removal proceedings. So now, ICE is detaining Gomez-Pena “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.* ICE decided to pursue removal proceedings against Gomez-Pena. And Congress specifically stripped the Court’s jurisdiction to review those discretionary decisions.

ICE recognizes the Court’s previous ruling not to apply *Gupta* where petitioner’s NTA was served after petitioner was detained. *Brito Matom v. ICE*, No. 2:25-cv-648-JES-NPM, 2025 WL 2577424, at *2 (M.D. Fla. Sept. 5, 2025). This case is different.

Removal proceedings were initiated after Gomez-Pena was already in detention. Now, removal proceedings are formally underway, and ICE is actively pursuing Gomez-Pena’s removal.

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 Gomez-Pena (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). Gomez-Pena decided to pursue habeas seeking only declarations and orders related to his release from confinement. (Doc. 5-1, ¶¶ 4, 8). Put different, this case is only about whether ICE can detain Gomez-Pena 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, Gomez-Pena 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.

3. *Failure to Exhaust*

Gomez-Pena has yet to exhaust his administrative remedies. DHS makes initial decisions about custody and bond—which an IJ may review. 8 C.F.R. § 1003.19(a). But to get a bond hearing, the alien (or his lawyer) must make an application to the IJ for bond redetermination. *Id.* § 1003.19(b)-(c). The IJ's bond redetermination is “separate and apart from” the removal proceedings. *Id.* § 1003.19(d). If the alien disagrees with the IJ's decision, he may appeal to the Board of Immigration Appeals (“BIA”). *Id.* § 1003.1(b)(7).

Gomez-Pena sought a bond hearing—which the IJ held. This mooted Gomez-Pena's assertions related to receiving a bond hearing. *See Juarez Alfredo v. Warden, Glades Cnty. Detention Ctr.*, No. 2:25-cv-00610-SPC-KCD (Doc. 5) (M.D. Fla. Oct. 17, 2025). While the IJ ruled against him, Gomez-Pena did not appeal to the BIA.

To the extent that Gomez-Pena implies futility in appealing to the BIA, he is mistaken. *See McGee v. Warden, FDC Miami*, 487 F. App'x 516, 518 (11th Cir. 2012) (finding no jurisdiction on habeas petition where petitioner failed to exhaust remedies despite argument doing so would be futile). Futility is not a blank check to relieve Petitioner's duty to exhaust his remedies. Under exceptional circumstances, courts may excuse an exhaustion requirement. *See Sanchez v. Warden, FCC Coleman - Low*, No. 5:23-CV-79-WFJ-PRL, 2023 WL 4489472, at *2 (M.D. Fla. July 12, 2023); *Faison v. Warden, FCC Coleman*, No. 5:23-CV-67-WFJ-PRL, 2023 WL 4489471 (M.D. Fla. July

12, 2023); *Vasquez v. Warden, FCC Coleman Low*, No. 5:22-CV-517-WFJ-PRL, 2023 WL 4157364, at *2 (M.D. Fla. June 23, 2023). Yet there are no facts alleged to support that relief in this case.

4. *Conclusion*

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

C. Merits

At bottom, Gomez-Pena alleges ICE's decision to detain him 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 is lawfully detained.

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 Gomez-Pena under § 1225(b)(2). The Parties do not dispute he entered the United States illegally and without any authorization. Gomez-Pena’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).

Gomez-Pena argues § 1225(b)(2) does not apply to aliens not detained near the border or who resided in the United States for more than two years. But nothing in the statutory language supports this conclusion. He contends an “applicant for admission” means an “arriving alien.” (Doc. 5-1, ¶ 86). Yet that only addresses half of 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.* Gomez-Pena's reading seeks to retroactively nullify this legislative fix and once again restore incentives to circumvent rather than comply with the INA.

To be fair, there are many recent decisions adverse to ICE's § 1225 position here. *E.g.*, *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 2809996, at *6 (D. Mass. Oct. 3, 2025). There are, however, decisions in support of ICE's text-based argument. *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). At least one other court came to the same conclusion. *Chavez v. Noem*, No. 3:25-cv-02325-CAB-SBC, 2025 WL 2730228, at *4-5 (S.D. Cal. Sept. 24, 2025). And the BIA specifically explained this rationale in *Hurtado*, 29 I&N Dec. 216.

Gomez-Pena contends his detention under § 1225 is improper and his detention should be under § 1226. But Gomez-Pena 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 Gomez-Pena demonstrate he is an applicant for admission under § 1225(b)(2).

Gomez-Pena illegally entered the United States more than twenty years ago. (Doc. 5-1, ¶ 55). He admittedly has no permission or status to remain in this country. So, it’s undisputed Gomez-Pena has not been admitted to the United States.

Due to Gomez-Pena’s unlawful immigration status, ICE is pursuing removal proceedings. Gomez-Pena has not stipulated that he is removable; nor has he indicated he will not contest removal. In fact, the opposite is true—he filed an application for cancellation of removal. At any point, Gomez-Pena can seek release from detention to depart the United States voluntarily. 8 U.S.C. § 1229c(a). But again, there is no indication he has any intention of doing so. Everything suggests Gomez-Pena will not agree to leave.

Yet, he has no status and was never admitted to the United States. Put different, Gomez-Pena must be an applicant for admission if he wants 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?”). At bottom, unless Gomez-Pena wants to leave, he is either an applicant for admission or seeking to remain here illegally.

To be clear, any alien intending to stay in the United States on any permanent basis must be admitted even if that’s twenty years 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)). Gomez-Pena may have been living in the United States illegally for over twenty 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 Gomez-Pena 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)).

Likewise, ICE’s position has been consistent since detaining Gomez-Pena. ICE initiated removal proceedings are under § 1229a—not § 1225 or § 1226. When ICE detained Gomez-Pena this year, it did so under the narrower provision tailored to his circumstances (*i.e.*, § 1225(b)(2)).

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 may detain Gomez-Pena under § 1225(b)(2).

As explained, Gomez-Pena's detention under § 1225(b)(2) is lawful. The INA mandates his detention.

Conclusion

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

Dated: December 8, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 8, 2025, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send a copy to the following CM/ECF participant listed below:

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**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ORLANDO IMMIGRATION COURT**

Respondent Name:

GOMEZ-PENA, JUAN MIGUEL

To:

Velasquez Andonie, Roberto Antonio
999 Ponce de leon
#1040
Coral Gables, FL 33134

A-Number:

[REDACTED]

Riders:

In Custody Redetermination Proceedings

Date:

10/21/2025

- ☐ Unable to forward - no address provided.
- ☒ Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

- ☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

- ☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.
- ☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.
- ☒ Other:

Date: 10/21/2025

A handwritten signature in black ink, appearing to read 'Pedro Espinal', is written in a cursive style.

Immigration Judge: Espinal, Pedro 10/21/2025

Certificate of Service

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Respondent Name : GOMEZ-PENA, JUAN MIGUEL | A-Number : [REDACTED]

Riders:

Date: 10/21/2025 By: NIEVES, KARISSA, Court Staff



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ORLANDO IMMIGRATION COURT**

Respondent Name:

GOMEZ-PENA, JUAN MIGUEL

To:

Velasquez Andonie, Roberto Antonio
999 Ponce de leon
#1040
Coral Gables, FL 33134

A-Number:

[REDACTED]

Riders:

In Custody Redetermination Proceedings

Date:

10/21/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- ☒ Denied, because
Immigration Judges lack authority to hear bond requests or grant bond to aliens present in the United States without admission and in removal proceedings, based on the plain language of 8 U.S.C. 1225(b)(2)(A)). Matter of YAJURE HURTADO, 29 I&N Dec. 216, 228 (BLA 2025).
- ☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
 - ☐ released from custody under bond of \$
 - ☐ other:
- ☐ Other:



Immigration Judge: Espinal, Pedro 10/21/2025

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 11/20/2025

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To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : GOMEZ-PENA, JUAN MIGUEL | A-Number : [REDACTED]

Riders:

Date: 10/21/2025 By: NIEVES, KARISSA, Court Staff

U.S. Department of Homeland Security
Immigration and Customs Enforcement

Notice to EOIR: Alien Address

GOVERNMENT EXPENSE. PLEASE EXPEDITE.

Date: 11/8/2025

To: ORLANDO Immigration Court
500 N. Orange Avenue STE 1100
Orlando, FL 32801

From: U.S. Department of Homeland Security
Immigration and Customs Enforcement
Enforcement and Removal Operations
13077 Veveras Drive, Jacksonville, FL 32258

Respondent: GOMEZ-PENA, Juan

Alien File No: [REDACTED]

This is to notify you that this respondent is:

☐ Currently incarcerated by Federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by ICE (Form I-247) has been shown below. He/she is incarcerated at:

His/her anticipated release date is: _____

☒ Detained by ICE at: Karnes County Immigration Processing Center
409 FM 1144
Karnes, City, TX 78118

☐ Detained by ICE and transferred this date to a new location: _____

DHS motion for change of venue attached.

☐

Yes

☐

No

☐ Released from ICE custody on the following condition(s):

☐
☐
☐
☐

Order of Supervision or Own Recognizance (Form I-220A)

Bond in the amount of \$ _____

☐

Surety ☐

Cash

Removed, Deported, or Excluded

Other: _____

☐ Upon release from ICE custody, the respondent reported his/her address and telephone number will be:

☒ I hereby certify that the respondent was provided an EOIR-33 and notified that they must inform the Immigration Court of any further change of address.

ICE Official: A. Chinn, Deportation Officer

FOIA.C.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

LEAD FILE: [REDACTED]
IN REMOVAL PROCEEDINGS
DATE: Nov 12, 2025
EAD Clock:

TO: Eduardo Soto, P.A.
Velasquez Andonie, Roberto Antonio
999 Ponce de leon
#1040
Coral Gables, FL 33134

RE: [REDACTED] GOMEZ-PENA, JUAN MIGUEL

Notice of Internet-Based Hearing

Your case has been scheduled for a MASTER hearing before the immigration court on:

Your hearing is not in person. You will access
your hearing by using the web page below.
URL: <https://eoir.webex.com/meet/IJ.Crossan>

Date: Dec 11, 2025
Time: 09:00 A.M. CT
Court Address: 566 Veterans Drive, PEARSALL, TX 78061

Representation: You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

Failure to Appear: If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

Change of Address: The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by completing the enclosed paper form and mailing it to the immigration court listed above.

Internet-Based Hearings: If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

In-Person Hearings: If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call 1-800-898-7180 (toll-free) or 304-625-2050.

The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL[M] PERSONAL SERVICE[P] ELECTRONIC SERVICE[E]
 TO: [] Noncitizen | [] Noncitizen c/o Custodial Officer |
 [E] Noncitizen ATT/REP | [E] DHS
 DATE: 11/12/25 BY: COURT STAFF RJR
 Attachments: [] EOIR-33 [] Appeal Packet [] Legal Services List [] Other NH

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Use a câmara do smartphone para digitalizar o código nesta página e ler o manual de instruções online.

使用智能手机摄像头扫描本页面的代码，即可在线阅读该通知。

ਨੋਟਿਸ ਨੂੰ ਓਨਲਾਈਨ ਪੜ੍ਹਨ ਲਈ ਇਸ ਪੇਜ 'ਤੇ ਕੋਡ ਨੂੰ ਸਕੈਨ ਕਰਨ ਲਈ ਸਮਾਰਟਫੋਨ ਦੇ ਕੈਮਰੇ ਦੀ ਵਰਤੋਂ ਕਰੋ।

অনলাইনে নোটিশ পড়ার জন্য এই পৃষ্ঠার কোডটি স্ক্যান করুন: স্মার্টফোনের ক্যামেরা ব্যবহার করুন

सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्यान गर्न स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entelijan pou eskane kòd ki nan paj sa a pou li avi a sou entènèt.

استخدم كاميرا الهاتف الذكي لمسح الرمز الموجود في هذه الصفحة لقراءة الإشعار على الإنترنت

Чтобы прочитать уведомление онлайн, отсканируйте код на этой странице с помощью камеры вашего смартфона.

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PEARSALL IMMIGRATION COURT

AMENDED-IJ IS OUT CASE RESET

LEAD FILE: [REDACTED]
IN REMOVAL PROCEEDINGS
DATE: Dec 3, 2025
EAD Clock:

TO: Eduardo Soto, P.A.
Velasquez Andonie, Roberto Antonio
999 Ponce de leon
#1040
Coral Gables, FL 33134

RE: [REDACTED] GOMEZ-PENA, JUAN MIGUEL

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your hearing by using the web page below.
URL: <https://eoir.webex.com/meet/IJ.Crossan>

Date: Dec 29, 2025
Time: 09:00 A.M. CT
Court Address: 566 Veterans Drive, PEARSALL, TX 78061

Representation: You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

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TO: [] Noncitizen | [] Noncitizen c/o Custodial Officer |

[E] Noncitizen ATT/REP | [E] DHS

DATE: 12/03/2025 BY: COURT STAFF BMJ

Attachments: [] EOIR-33 [] Appeal Packet [] Legal Services List [] Other NH

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