UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

JACOB IRE VIJANDRE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:25-cv-136
	)	
WARDEN, FOLKSTON ICE PROCESSING CENTER, at al.	)	
	)	
Respondents.	)	

RESPONSE TO AMENDED PETITION AND MOTION TO DISMISS

Petitioner Jacob Vijandre filed this amended petition for habeas corpus relief alleging that his detention by Immigration and Customs Enforcement ("ICE") is unlawful. But Congress has stripped this Court of jurisdiction over these types of allegations. Petitioner has also filed a shotgun pleading and failed to exhaust his administrative remedies. Finally, Petitioner's detention is lawful. Therefore, this Court should dismiss the Amended Petition.

FACTUAL BACKGROUND

Petitioner was admitted to the United States in 2011 as a non-citizen with permission to remain in the United States. Doc. 15-1 (Crystal White Declaration), ¶ 4. He subsequently applied for and received status under the Deferred Action for Childhood Arrivals ("DACA") program. *Id.*, ¶ 5; *see also* Doc. 21, ¶ 20. On September 22, 2025, the United States Citizenship and Immigration Services ("USCIS") notified Petitioner of its intent to terminate his DACA status. Doc. 21-1 at 2–3. The basis for

this decision was Petitioner's documented material support for and fundraising efforts on behalf of individuals "known to engage in acts of terrorism." *Id.*

On October 7, 2025, Petitioner was arrested by ICE/ERO. Doc. 15-1, ¶ 6. He has been detained at the Folkston D. Ray ICE Processing Center in Folkston, Georgia, since October 24, 2025. *Id.*, ¶ 7. The authority for his civil immigration detention is found in 8 U.S.C. § 1226(c)(1)(D), which makes such detention mandatory for aliens who have engaged in activities described in 8 U.S.C. § 1227(a)(4).

On November 3, 2025, Petitioner received a custody redetermination hearing. Doc. 15-1, ¶ 12; Doc. 21 at 18. He submitted 178 pages of evidence. Doc. 15 at 246–423. DHS also submitted evidence. *Id.* at 426–45. At that hearing, Petitioner was represented by counsel, and the immigration judge ("IJ") discussed his eligibility for release on bond. Doc. 21, ¶ 46; *see also* Doc. 15-1 at 449. After the hearing, the IJ issued a decision that explained the basis for her denial of Petitioner's bond, including alternative findings that Petitioner had failed to establish that he was not a danger or a flight risk. *Id.* Petitioner reserved the right to appeal. *Id.*

Petitioner is not challenging his underlying removal. Doc. 21, ¶ 11. He also is not challenging the notification from USCIS that it intends to terminate his DACA status. He challenges only the lawfulness of his detention during his immigration proceedings. *Id.*

ARGUMENT

I. The only proper Respondent is the Warden.

The only proper respondent in a habeas action is the custodian of the petitioner. 28 U.S.C. §§ 2242-2243; *see also Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) ("[T]he default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."); *Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3188406, at *9 (S.D. Ga. Nov. 14, 2025) (Wood, J.) (concluding the warden is the only proper respondent in a habeas action challenging immigration detention).

Petitioner has shown no reason to depart from this standard practice. In addition to naming the Warden of Folkston, who is Petitioner's immediate custodian, *see* Doc. 21, ¶ 19, Petitioner improperly names as respondents Kristi Noem, Pamela Bondi, Todd Lyons, and George Sterling. *Id.*, ¶¶ 15–18. Even if Petitioner has properly served these additional three government officials under Rule 4(i), which Respondent does not concede, none is a proper respondent to this Petition because Petitioner is not in their custody. The only proper Respondent is the current warden at Folkston. *See Villa*, 2025 WL 3188406, at *9.

Therefore, even if this petition survives a Motion to Dismiss, the other respondents should be dismissed.

II. The Amended Petition is a shotgun pleading.

A shotgun pleading is one which violates either Rule 8(a)(2) or Rule 10(b) of the Federal Rules of Civil Procedure. *Weiland v. Palm Beach Cnty. Sheriff's Office*,

792 F.3d 1313, 1320 (11th Cir. 2015). Rule 8(a)(2) requires "a short and plain statement of the claim," while Rule 10(b) requires that paragraphs be numbered and limited "to a single set of circumstances." Fed. R. Civ. P. 8(a)(2), 10(b). There are four types of shotgun pleadings. *Weiland*, 792 F.3d at 1321. "The most common type—by a long shot—is a complaint containing multiple counts where each count adopts the allegations of all preceding counts, causing each successive count to carry all that came before and the last count to be a combination of the entire complaint." *Id.* Such a failure of pleading constitutes *per se* inadequate notice. *Id.* at 1323.

Here, the Amended Petition is a shotgun pleading. Petitioner presents seven claims for relief, and each incorporates all preceding paragraphs within it. Doc. 21, ¶ 64, 71, 78, 90, 97, 101. Because it fails to distinguish plainly its allegations, the Amended Petition necessarily fails to give adequate notice to Respondents. *See Weiland*, 792 F.3d at 1323.[1]

Therefore, because the Amended Petition fails to comply with the pleading requirements of the Federal Rules of Civil Procedure, it should be dismissed.

III. Petitioner has not exhausted his administrative remedies.

This Amended Petition should also be dismissed because Petitioner has not exhausted his administrative remedies.

---

[1] That Respondent has made its best efforts to comply with the Court's orders directing a response to the Amended Petition should not be interpreted as a concession that the impermissible shotgun pleading gives sufficient notice of its intended claims. Respondent's arguments are presented in the alternative, out of an abundance of caution, to the extent this Court determines the Amended Petition is not a shotgun pleading.

"[T]he general rule [is] that parties exhaust prescribed administrative remedies before seeking relief from the federal courts." *McCarthy v. Madigan*, 503 U.S. 140, 144-45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81, 88–89 (2006). Although not jurisdictional in nature, "[t]he exhaustion requirement is still a requirement" for petitioners seeking relief under 28 U.S.C. § 2241. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75 (11th Cir. 2015); *Jenner v. Stone*, No. 3:17-cv-68, 2018 WL 2976995, at *2 (S.D. Ga. May 16, 2018) (Epps, J.) ("Prisoners seeking habeas relief, including relief pursuant to § 2241, are subject to administrative exhaustion requirements."), *report and recommendation adopted*, 2018 WL 2972350 (S.D. Ga. June 13, 2018). "[C]ases . . . are ripe for dismissal unless administrative remedies [have] been exhausted before the cases [are] brought to the district court." *Perez-Perez v. Hanberry*, 781 F.2d 1477, 1481 (11th Cir. 1986) (citing *Garcia-Mir v. Smith*, 766 F.2d 1478, 1483 n.6, 1486 n.8, 1489, 1492 (11th Cir. 1985)). This prudential requirement prevents a petitioner from "bypass[ing] the administrative process in hopes that he will find a more sympathetic forum in [federal] Court." *Sequeira-Balmaceda v. Reno*, 79 F. Supp. 2d 1378, 1382 (N.D. Ga. 2000). Exhaustion allows the agency responsible for detention to develop a factual record, as well as to discover and correct any errors it may have committed. *See Jean v. Nelson*, 711 F.2d 1455, 1505–06 (11th Cir. 1983) (exhaustion should be required where it may (1) permit an agency to develop a more complete factual record, (2) allow the agency to apply its discretion and expertise, (3) prevent disregard of

established agency procedures, and (4) allow the agency an opportunity to correct errors and thereby enhance judicial efficiency).

Both the Eleventh Circuit and this Court have made clear that habeas petitioners must exhaust administrative remedies *before* filing their petitions. *See, e.g.*, *Baranoff v. Bureau of Prisons*, No. 2:09-cv-83, 2009 WL 4572772, at *2 (S.D. Ga. Dec. 4, 2009) (Wood, J.) ("Petitioner was required to exhaust his administrative remedies prior to filing his § 2241 petition, and he failed to do so."). In *Perez-Perez,* aliens detained pre-final order of removal filed habeas petitions seeking release from immigration custody. 781 F.2d at 1478–79. The district court found that the aliens could challenge ICE/ERO's refusal to release the aliens on parole and certified an interlocutory appeal. *Id.* at 1479. The Eleventh Circuit reversed on appeal, finding it "clear . . . that cases such as those before us here are ripe for dismissal unless administrative remedies had been exhausted before the cases were brought to the district court." *Id.* at 1481. Because it was undisputed that the aliens had not exhausted their administrative remedies under the parole procedures, "[t]he district court . . . should have dismissed [the habeas petitions] for failure to exhaust administrative remedies." *Id.*

Here, Petitioner has not exhausted his administrative remedies. In fact, he filed this petition before his custody redetermination hearing had even occurred. *See* Docs 1 (filed October 27, 2025), 21 at 18 (hearing occurred November 3, 2025). Although that hearing has now occurred and Petitioner has received a determination on bond from an IJ, exhaustion is assessed at the time the action is filed. *See*

Woodford v. Ngo, 548 U.S. 81, 93 (2006); *Smith v. Terry*, 491 F. App'x 81, 83 (11th Cir. 2012). Even if the Court could consider events that occurred post-filing, Petitioner still has not exhausted. He is aware of his right to appeal the IJ's determination to the Board of Immigration Appeals ("BIA"); in fact, he has reserved already reserved this right. *See* 8 C.F.R. § 1003.1(b)(7); Doc. 15-1 at 450. Instead of pursuing his appeal through the proper channels, however, this Amended Petition attempts to bypass the immigration appeal process. Exhaustion is no longer a jurisdictional requirement, but it is still a requirement. *Santiago-Lugo*, 785 F.3d at 474–75. Petitioner does not dispute that he has not exhausted; in fact, his Amended Petition does not even discuss the issue of exhaustion.

Therefore, the Court should dismiss the Amended Petition for failure to exhaust administrative remedies.

IV. Petitioner's claims are barred by 8 U.S.C. § 1252(g).

The plain language of 8 U.S.C. § 1252(g) and the Eleventh Circuit's consistent interpretation of this provision independently foreclose Petitioner's habeas corpus claims. Congress stripped federal district courts of jurisdiction over § 2241 challenges to an alien's detention in 8 U.S.C. § 1252(g). That provision reads:

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g).

Calling § 1252(g) "unambiguous," the Eleventh Circuit held that this statute "bars federal courts' subject-matter jurisdiction over any claim for which the 'decision or action' of the Attorney General (usually acting through subordinates) to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim." *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). The Court of Appeals interpreted the scope of "commenc[ing] proceedings" to include "[s]ecuring an alien while awaiting a removal determination." *Id.*

A subsequent panel made *Gupta*'s holding more plainly applicable to the facts of Petitioner's habeas corpus petition, finding that "ICE's decision to take [a noncitizen] into custody and to detain him during his removal proceedings . . . w[as] closely connected to the decision to commence proceedings, and thus w[as] immune from our review." *Alvarez v. U.S. Immigr. & Customs Enf't*, 818 F.3d 1194, 1203 (11th Cir. 2016). The Eleventh Circuit found that § 1252(g) barred Alvarez's claim, even though he alleged his detention violated the Fourth and Fifth Amendments because government officials made knowing misrepresentations to detain him. *Id.* at 1203–04; *see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 488 (1999) ("[A]n alien unlawfully in this country has no constitutional right to assert selective enforcement as a defense against his deportation."). "When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. United States Citizenship & Immigr. Servs.*, 964 F.3d 1250, 1257–58 (11th Cir. 2020). Efforts to challenge the refusal of immigration officials to exercise

favorable discretion also fall under § 1252(g)'s jurisdictional provision. *Alvarez*, 818 F.3d at 1205.

Here, Petitioner challenges a specific action—securing him during removal proceedings, *see* Doc. 21, ¶ 11—that the Eleventh Circuit has ruled falls within the scope of "commenc[ing] proceedings" referenced in § 1252(g). *See Gupta*, 709 F.3d at 1065. Section 1252(g) explicitly precludes habeas relief. Consequently, his habeas corpus claims are barred by statute.

Therefore, this Court should dismiss pursuant to § 1252(g).

V. Petitioner's detention is lawful.

Petitioner is detained pursuant to § 1226(c)(1)(D). Doc. 15-1, ¶ 3. Detention under this provision is both lawful and mandatory. As the Supreme Court has noted, "[u]nder § 1226(c), the Attorney General shall take into custody any alien who falls into one of several enumerated categories involving criminal offenses and terrorist activities." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (quotation marks omitted). Aliens detained under § 1226(c) "may *not* be released." *Id.* (emphasis in original).

Given the weight of authority, it is unsurprising that Petitioner does not challenge the government's application of § 1226(c)(1)(D) to his situation. Instead, he argues that the specific behavior which makes his detention mandatory—his inadmissibility under § 1182(a)(3)(B)—is protected by the First Amendment. Petitioner's arguments should be disregarded.

A. Petitioner is not admissible under 8 U.S.C. § 1182(a)(3)(B).

As an initial matter, Petitioner does not dispute the specific actions at issue in his removal proceedings. He does not dispute DHS's determination that he supports organizations classified as terrorist organizations. He does not dispute USCIS's determination that he has sought to raise funds for individuals convicted of conspiring to attach Fort Dix, New Jersey. The fact that establishing admissibility is his burden brings these omissions into greater relief.[2]

The statutory provisions of the Immigration and Nationality Act ("INA") designate several categories of aliens inadmissible and therefore removable. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020) (citing 8 U.S.C. § 1182). Aliens who engage in terrorist activity are one such category, which is defined to include soliciting funds for terrorist activity or organizations. 8 U.S.C. § 1182(a)(3)(B)(IV). More broadly, committing any action that the alien reasonably should know affords material support to a terrorist organization also qualifies as engaging in terrorist activity. *Id.* § 1182(a)(3)(B)(iv)(VI)(dd). If the alien wishes to argue that he was ignorant of the organization's purpose, he bears the burden to establish, by clear and convincing evidence, that he did not know the organization

---

[2] Had the Amended Petition disputed the grounds on which the IJ reached her alternative conclusions that Petitioner had failed to show he was a flight risk or danger, such a challenge would be barred under 8 U.S.C. § 1226(e). That provision bars district courts from reviewing decisions "regarding the detention of any alien or the revocation or denial of bond or parole." *Id.* As the Supreme Court has held, "§ 1226(e) precludes an alien from 'challeng[ing] a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding his detention or release.'" *Jennings*, 583 U.S. at 295 (quoting *Demore v. Kim*, 538 U.S. 510, 516, (2003)) (cleaned up).

was a terrorist organization. *Id.* When an alien's actions bring him under the provisions of § 1182(a), he is inadmissible. *Id.* § 1182(a)(3)(B)(i)(I). Throughout this framework, the alien bears the burden to show he is not inadmissible under "any of the grounds enumerated in § 1182(a)." *Garces v. U.S. Atty. Gen.*, 611 F.3d 1337, 1345–46 (11th Cir. 2010); *see also Mancinas-Hernandez v. U.S. Atty. Gen.*, 533 F. App'x 874, 876 (11th Cir. 2013) ("An alien bears the burden of proving his eligibility for adjustment of status, including, *inter alia,* that he is admissible.").

Here, Petitioner has not met his burden to show that he is not inadmissible under § 1182(a)(3)(B)(IV). According to USCIS, he was soliciting funds for terrorist organizations. Doc. 21-1. More specifically, USCIS found that Petitioner is connected to social media posts supporting designated terrorist organizations and raising funds in support of individuals convicted of conspiring to murder members of the United States Military. *Id.* Petitioner bears the burden to demonstrate that he is not inadmissible under these grounds. *See Garces*, 611 F.3d at 1345–46. His Amended Petition fails to meet his burden or even to fully address these fund-related allegations, instead focusing solely on his writings. *See, e.g.*, Doc. 21, ¶ 42. Therefore, pursuant to § 1182(a)(3)(B)(IV), Petitioner is inadmissible.

Second, Petitioner is also inadmissible under § 1182(a)(3)(B)(VI). This subsection makes inadmissible any alien who "endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization." *Id.* § 1182(a)(3)(B)(i)(VII). This prohibition on admission by aliens who support terrorist activity is defined broadly by the courts. *See Lemorin v. U.S. Atty.*

Gen., 416 F. App'x 35, 38 (11th Cir. 2011) (citing *Khan v. Holder*, 584 F.3d 773, 777 (9th Cir.2009)). It does not require the alien to possess formal membership in a terrorist organization. *See In re Petitioners Seeking Habeas Corpus Relief in Rel. to Prior Detentions at Guantanamo Bay*, 700 F. Supp. 2d 119, 135 (D.D.C. 2010), *aff'd* 2012 WL 3797596 (D.C. Cir. Aug. 10, 2012).

Here, DHS classified Petitioner as endorsing or espousing terrorist activity in two ways. [redacted] days after receiving USCIS's notice of intent to revoke his DACA status. Doc. 21-3, ¶ 12. After viewing the evidence above and hearing from Petitioner himself, the IJ concluded that Petitioner was inadmissible under § 1182(a)(3)(B)(i)(VII).

---

[3] The "castle doctrine" is the common term for the privilege of non-retreat within one's residence. *See, e.g., Trice v. Sec'y, Fla. Dep't of Corr.*, 766 F. App'x 840, 844 (11th Cir. 2019). Petitioner calls the Texas version a "stand your ground" law. Doc. 21, ¶ 44.

Establishing admissibility is the alien's burden, as is showing he is not inadmissible under § 1182(a). *Garces v. U.S. Atty. Gen.*, 611 F.3d 1337, 1345–46 (11th Cir. 2010). Thus, Petitioner bears the burden to show that he does not endorse or espouse terrorist activity. He has not met this burden. Therefore, this Court should also conclude he is not admissible under § 1182(a).

B. Petitioner's First Amendment argument is unavailing.

Petitioner argues that his activities are protected under the First Amendment and are therefore permissible. Doc. 21 at 28–44. He is mistaken for two reasons.

First, Congress can—and has—criminalized actions that provide material support to terrorist organizations. *See, e.g.*, *United States v. El-Mezain*, 664 F.3d 467, 537 (5th Cir. 2011), *as revised* (Dec. 27, 2011). After all, "[e]veryone agrees that the Government's interest in combating terrorism is an urgent objective of the highest order." *Holder v. Humanitarian L. Project*, 561 U.S. 1, 28 (2010). Nor does the Constitution require the government to provide "detail" or "specific evidence" when establishing material support for terrorism. *Id.* at 34–35. Instead, when persuasive evidence is presented, the government's judgment that providing material support to a designated foreign terrorist organization "is entitled to significant weight." *Id.* at 36. If Congress can criminalize such behavior, it can certainly make aliens who engage in support of terrorism inadmissible. After all, Congress's authority to make immigration policy is firmly embedded in the legislative and judicial history of the United States. *Dep't of State v. Munoz*, 602 U.S. 899, 915 (2024).

Second, the determination of Petitioner's inadmissibility is based not on his speech but on his actions. The First Amendment "does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove motive or intent." *Wisconsin v. Mitchell*, 508 U.S. 476, 489 (1993). For example, while an expression of support for a terrorist group may be protected, fundraising for that same group is not. *United States v. Kasimov*, No. 22-1329, 2024 WL 4541061, at *3 (2d Cir. Oct. 22, 2024) (affirming conviction for conspiracy to provide material support to ISIS and finding expressions of support for that terrorist organization to be probative of defendant's knowledge of its actions). It is clear from the evidence before this Court that DHS's arguments about Petitioner's admissibility under § 1182(a) are based upon his actions (*e.g.*, fundraising), not mere speech. Petitioner's actions sought to further the goals of terrorist organizations, not make merely political statements. *See United States v. Stewart*, 65 F.3d 918, 930 (11th Cir. 1995) (concluding cross burning was a threatening behavior and not merely a political statement).

If Petitioner is inadmissible under § 1182(a), his detention is mandatory under § 1226(c)(1)(D). Therefore, this Court should end the inquiry after concluding that Petitioner has failed to meet his burden to show he is not inadmissible.

CONCLUSION

Therefore, this Court should dismiss the Amended Petition.

[*signature page to follow*]

Respectfully submitted, this 28th day of November, 2025.

MARGARET E. HEAP
UNITED STATES ATTORNEY

/s/ O. Woelke Leithart
Idaho Bar No. 9257
Assistant United States Attorney
U.S. Attorney's Office
Post Office Box 8970
Savannah, Georgia 31412
Telephone: (912) 652-4422
E-mail: Woelke.Leithart@usdoj.gov