UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

SERGEI VASENIN,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 3:25-cv-895-DRL-SJF
	)	
BRIAN ENGLISH, *et al.*	)	
	)	
Respondents.	)	

RESPONDENTS' RESPONSE TO PETITION FOR *WRIT OF HABEAS CORPUS*

Sergei Vasenin ("Vasenin") has petitioned for a *writ of habeas corpus* under 28 U.S.C. § 2241. He asks this Court to order his immediately release from DHS custody. The Court should deny his petition because it lacks subject matter jurisdiction. But even if the Court had jurisdiction, the Court should deny this Petition because Vasenin is subject to a final order of removal, and thus, mandatory detention under 8 U.S.C. § 1231(a). And even if the Court finds Vasenin is not subject to final order of removal, Vasenin is lawfully detained as an "applicant for admission" pending removal proceedings under 8 U.S.C. § 1225(b)(2).

INTRODUCTION

Vasenin is a Russian national citizen who has never been legally admitted into this country and was subject to removal in October 2022. He appealed that order. While that was pending, Vasenin was arrested and is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Miami Correctional Facility. Vasenin filed a petition for a *writ of habeas corpus* seeking release from detention

pending the appeal in his removal proceedings. After filing his petition, the Board of Immigration Appeals ("BIA") dismissed his appeal, and his order of removal became final. Thus, Vasenin is subject to a final order of removal, and consequently, mandatory detention under 8 U.S.C. §§ 1231(a)(1)(A) and (a)(2)(A).

The Court should deny Vasenin's *habeas* petition for several reasons. First, due to the BIA denying his appeal in the removal proceedings, the Court now lacks subject matter jurisdiction. Vasenin is subject to *post-final order* detention under § 1231(a)(2)(A). Any challenge to *pre-final order* detention under § 1226 is moot. The Court also lacks jurisdiction because Vasenin's *habeas* petition directly arises from DHS's decision to commence and/or adjudicate removal proceedings against him. Sections 1252(b)(9), (e)(3), and (g) bar judicial review of such decisions.

Setting jurisdiction aside, Vasenin has a "final order of removal" and therefore is lawfully detained under 8 U.S.C. § 1231(a)(2)(A) which mandates that the "Attorney General shall detain the alien." And even if the Court finds Vasenin is not subject to a final order of removal, he is lawfully detained under § 1225(b)(2). The plain text of § 1225(b)(2) provides for mandatory detention of any alien "who is an applicant for admission." And "applicants for admission" specifically include all "alien[s] present in the United States who [have] not been admitted" or "who arrive[] in the United States." 8 U.S.C. § 1225(a)(1). Because Vasenin has never been admitted, he is an "applicant for admission" and thus subject to mandatory detention. For these reasons, Respondents ask that the Court deny Vasenin's *habeas* petition and dismiss this action with prejudice.

BACKGROUND

A. Summary of Immigration Case

Vasenin is a Russian citizen who arrived in the United States at the San Ysidro, California port of entry in October 2022. DE # 1, ¶¶ 1-2. Vasenin requested entry to seek asylum. *Id.* at ¶ 2. He was detained by DHS, and following a credible fear interview, released from custody under "humanitarian parole."[1] *Id.* At the same time, DHS issued a Notice to Appear ("NTA"), thereby initiating removal proceedings against him. *Id.* at ¶ 3. On July 10, 2025, an immigration judge ("IJ") denied Vasenin's application for asylum and ordered his removal from the country. Ex. 1 (IJ Order). Subsequently, on October 14, 2025, ICE arrested Vasenin in Chicago for "being present in the United States without the proper immigration documents." *See* Ex. 2 (Form I-213). Vasenin was then transferred to the Miami Correctional Facility in Bunker Hill, Indiana, as an "applicant for admission" pending resolution of his removing proceedings. 8 U.S.C. § 1225(b)(2). *Id.*

B. Petitioner's BIA Appeal, *Habeas* Petition, and Final Order of Removal

Vasenin attempted to appeal the IJ's removal order with the BIA. On August 8, 2025, before he was arrested, Vasenin mailed a notice of appeal to the BIA. *Id.* at ¶ 5. But the BIA rejected the appeal because it only accepts electronic filings. *Id.*, p. 23. On August 15, 2025, Vasenin electronically filed his appeal, and days later, the BIA acknowledged "notice of receipt." *Id.* at ¶ 6.

[1] Vasenin's parole expired in October 2023. *See* DE # 1, p. 22.

On November 3, 2025, Vasenin filed a *habeas* petition in this Court arguing, among other things, that his detention is unlawful under the Immigration and Nationality Act ("INA") and unconstitutional under the Fifth Amendment's Due Process Clause. Vasenin seeks his immediate release under 8 U.S.C. § 1226(a). *Id.* On the same day, the BIA ruled that Vasenin's appeal was untimely. *See* Ex. 3. (BIA Order) (finding that the appeal was not perfected within 30 calendar days). The BIA dismissed his appeal and noted that "[t]he Immigration Judge's decision is accordingly now final." *Id.* (citations omitted). On information and belief, Vasenin has moved to reconsider the BIA's dismissal. However, the BIA has not reversed its decision. Thus, Vasenin is subject to a final order of removal. 8 U.S.C. § 1231(a).

LEGAL STANDARD

A petition for a *writ of habeas corpus* challenges the legality or constitutionality of the government's restraint or imprisonment of the petitioner. 28 U.S.C. § 2241. A petitioner bears the burden to demonstrate that his detention is unlawful. *Walker v. Johnston*, 312 U.S. 275, 268 (1941).

ARGUMENT

I. PETITIONER'S *HABEAS* CLAIMS SHOULD BE DISMISSED FOR LACK OF JURISDICTION UNDER RULE 12(b)(1).

A. Petitioner's Habeas Claims Are Moot.

Article III of the Constitution states that "federal courts may adjudicate only actual, ongoing cases or controversies." *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990). "[A] case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Cnty. of L.A. v. Davis*, 440

U.S. 625, 631 (1979) (internal quotation omitted). Significantly, a *habeas* petition that challenges pre-final order detention is moot once a final order has been entered. *See Wang v. Ashcroft*, 320 F.3d 130, 147 (2d Cir. 2003) (finding that a due process claim under § 1226 is moot once the petitioner is subject to detention under § 1231); *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1338 (11th Cir. 2001) (holding a challenge to pre-final order detention moot once the final order has been entered); *United States ex rel. Spinella v. Savoretti*, 201 F.2d 364 (5th Cir. 1953) (same).

Here, Vasenin seeks his immediate release from his *pre-final removal order* detention. *See* DE # 1, ¶ 65 (alleging he is detention is unlawful under § 1226). But the BIA dismissed his appeal on the same day he filed this petition, and consequently, Vasenin is now subject to *post-final removal order* detention. *See* Ex. 3. To put it another way, the statutory authority for Vasenin's detention has shifted from pre-final removal order (either under § 1225 or § 1226) to post-final removal order (under § 1231(a)). *See Johnson v. Guzman Chavez*, 594 U.S. 523, 528 (2021); *Casas–Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 947 (9th Cir. 2008); 8 C.F.R. § 1241.1(a). Because Vasenin's pre-final order detention is no longer at issue, the Court should dismiss his Petition as moot. *See Wang*, 320 F.3d 130.

Vasenin may argue that he is not subject to a final order of removal because he filed a motion to reconsider the BIA's dismissal order. But the filing of a motion to reconsider does not toll the time in which to seek review of the denial of a motion to reopen or dismissal of the underlying appeal. *El-Gazawy v. Holder*, 690 F.3d 852, 857 (7th Cir. 2012) *citing Stone v. INS*, 514 U.S. 386, 405 (1995) (the finality of a removal

order is not affected by the subsequent filing of a motion to reconsider). Thus, Vasenin's removal order remains final. Therefore, his petition should be dismissed as moot.

B. § 1252(e)(3) Bars Review of Petitioner's *Habeas* Claims

The Court also lacks subject matter jurisdiction under several statutory provisions. Vasenin seeks to challenge his detention under § 1225(b)(2)(A), but § 1252(e)(3) deprives this Court of jurisdiction, including *habeas corpus* jurisdiction, by limiting judicial review of "determinations under § 1225(b) of this title and its implementation" to the District Court for the District of Columbia. 8 U.S.C. § 1252(e)(3). Paragraph (e)(3) further confines this limited review to (1) whether section 1225(b) or an implementing regulation is constitutional, or (2) whether a regulation or other written policy directive, guideline, or procedure implementing the section violates the law. *See* 8 U.S.C. § 1252(e)(3)(A)(i)-(ii); *see also M.M.V. v. Garland*, 1 F.4th 1100, 1109 (D.C. Cir. 2021). Unlike other provisions within § 1252(e), §1252(e)(3) applies broadly to judicial review of section 1225(b), not just determinations under § 1225(b)(1). *Compare* 8 U.S.C. § 1252(e)(1)(A), (e)(2), *with* 8 U.S.C. § 1252(e)(3)(A). That matters because "where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.'" *Russello v. United States*, 464 U.S. 16, 23 (1983) (quoting *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972)).

Here, Vasenin challenges, among other things, DHS's determination that aliens who entered the United States without inspection are subject to mandatory detention under section 1225(b)(2). *See, e.g.*, DE # 1, ¶¶48-51. Vasenin thus seeks judicial review of a "written policy" or "guideline" implementing § 1225(b), which is covered by § 1252(e)(3)(A)(ii). Because this petition was not "instituted in the United States District Court for the District of Columbia," it should be dismissed. 8 U.S.C. § 1252(e)3)(A).

C. Section 1252(g) Bars Review of Petitioner's *Habeas* Claims

Moreover, because Petitioner is undisputedly subject to removal proceedings regardless of the status of his BIA appeal, section 1252(g) categorically bars jurisdiction over "*any* cause or claim by or on behalf of any alien *arising from* the decision or action by the [Secretary of Homeland Security] to *commence proceedings*, adjudicate cases, or execute removal orders against any alien." 8 U.S.C. § 1252(g) (emphasis added). The Secretary of Homeland Security's decision to *commence removal proceedings*, including the decision to detain an alien pending such removal proceedings, squarely falls within this jurisdictional bar. In other words, detention clearly "aris[es] from" the decision to commence removal proceedings against an alien. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and also to review "ICE's decision to take [plaintiff] into custody and to detain him during removal proceedings"); *see also Khorrami v. Rolince*, 493 F. Supp. 2d 1061 (N.D. Ill. 2007) ("[Plaintiff's] detention necessarily *arises from* the decision

to initiate removal proceedings against him.") (emphasis added). As such, judicial review of the Petitioner's claim is barred by section 1252(g).

D. § 1252(b)(9) Bars Review of Petitioner's Claim.

Similarly, Petitioner's challenge to his detention while subject to removal proceedings is barred because under § 1252(b)(9), "judicial review of all questions of law. . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an alien from the United States" is only proper before the appropriate court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("*AADC*"). § 1252(b)(9) is thus an "unmistakable 'zipper' clause" that "channels judicial review of all" claims arising from deportation proceedings to a court of appeals in the first instance. *Id.; see Lopez v. Barr*, 2021 WL 195523, at *2 (D. Minn. Jan. 20, 2021) (citing *Nasrallah v. Barr*, 590 U.S. 573, 579–80 (2020)). This jurisdictional bar works in tandem with section 1252(a)(5), which provides that a petition for review is the exclusive means for judicial review of immigration proceedings. "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any issue—whether legal or factual—arising from any removal-related activity can be reviewed only through the [petition-for-review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016); *see id.* at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges...whenever they 'arise from' removal proceedings"); *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007) (similar).

Critically, "Section 1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Section 1252(a)(2)(D) provides that "[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) ("[J]urisdiction to review such claims is vested exclusively in the courts of appeals[.]"). The petition-for-review process before the court of appeals ensures that aliens have a proper forum for claims arising from their immigration proceedings and "receive their day in court." *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("The REAL ID Act of 2005 amended the [INA] to obviate. . . . Suspension Clause concerns" by permitting judicial review of "nondiscretionary" BIA determinations and "all constitutional claims or questions of law.").

Sections 1252(a)(5) and (b)(9) divest district courts of jurisdiction to review both direct and indirect challenges to removals. The statutes do not permit the use of *habeas* to challenge "the decision to *detain* [an alien] in the first place or to seek removal." *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (plurality opinion) (emphasis added); *see also id.* at 314 (Thomas, J., concurring in part and concurring in the judgment) (with Justice Gorsuch, agreeing with the plurality that section 1252(b)(9) does not permit such a *habeas* petition). Yet that is precisely what Vasenin is requesting here.

Vasenin seeks to sidestep these jurisdictional bars by arguing about futility and pointing to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and specifically the BIA's finding that ICE could treat undocumented immigrants already present in the United States as arriving aliens subject to mandatory detention under section 1225(b)(2). DE # 1, ¶¶ 58-62. But section 1252(b)(9) provides that "[j]udicial review of *all* questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order." (emphasis added.) It therefore bars claims "challenging the decision to detain them in the first place." *Jennings*, 583 U.S. at 294 (plurality opinion).[2] By making such a challenge, the *habeas* claims here require the Court to answer "legal questions" that arise from "an action taken to remove an alien;" thus, Vasenin's claims "fall within the scope of § 1252(b)(9)." *Jennings*, 583 U.S. at 295 n.3 (plurality opinion); *id.* at 317 (Thomas, J., concurring in part and concurring in the judgment) (with Justice Gorsuch, agreeing that detention falls within the scope of section 1252(b)(9)'s limitation). Accordingly, the Court should dismiss the claim for lack of jurisdiction under § 1252(b)(9).

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[2] *See also Jennings*, 583 U.S. at 317 (Thomas, J., concurring in part and concurring in the judgment) ("Section 1252(b)(9) is a 'general jurisdictional limitation' that applies to 'all claims arising from deportation proceedings' and the 'many decisions or actions that may be part of the deportation process.' Detaining an alien falls within this definition—indeed, this Court has described detention during removal proceedings as an 'aspect of the deportation process.' . . . The phrase 'any action taken to remove an alien from the United States' must at least cover congressionally authorized portions of the deportation process that necessarily serve the purpose of ensuring an alien's removal." (alterations and citation omitted) (quoting *AADC*, 525 U.S. at 482–83; *Kim*, 538 U.S. at 523; and 8 U.S.C. § 1252(b)(9))).

II. THE COURT SHOULD DISMISS THE PETITION BECAUSE PETITIONER IS PROPERLY DETAINED UNDER 8 U.S.C. § 1231.

Setting jurisdiction aside, Vasenin's current detention is lawful. A removable noncitizen may be detained during their removal proceedings and after they receive an order of removal. *See* 8 U.S.C. §§ 1225, 1226, 1231. After administrative immigration proceedings are completed and an immigration judge issues a final order of removal, the authority for his detention shifts to § 1231(a). *See Johnson v. Guzman Chavez*, 594 U.S. 523, 528-29 (2021). When an alien is ordered removed, the United States has 90 days to execute the removal. 8 U.S.C. § 1231(a)(1)(A). During the removal period, detention of an alien is mandatory. 8 U.S.C. § 1231(a)(2).[3]

Here, Vasenin's order of removal became final on November 3, 2025. *See* Ex. 3 (BIA dismissing his appeal). The final order of removal not only authorized his detention, but mandated it. 8 U.S.C. § 1231(a)(2) ("When an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days."); 8 U.S.C. § 1231(b) ("During the removal period, the Attorney General shall detain the alien."); *see also Phadael v. Ripa*, No. 24-cv-22227, 2024 WL 3088350, at *2 (S.D. Fla. June 21, 2024) ("As the mandatory language of the statute suggests, an alien *must be detained* once an order of removal becomes final") (emphasis in

[3] ICE also possesses discretionary authority to detain a non-citizen immigrant subject to a final order of removal *beyond* the initial 90-day period if he is inadmissible under 28 U.S.C. § 1182. *See* 28 U.S.C. § 1231(a)(6) ("An alien ordered removed who is inadmissible under section 1182 of this title ... may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3)."); *see also* 8 C.F.R. § 241.4 (regulatory procedures for the continued detention of inadmissible immigrants beyond the removal period). This applies to non-citizen immigrants who are present in the United Statues without being admitted or paroled, as well as those lacking valid entry, travel, or identity documentation. *See* 8 U.S.C. §§ 1182(a)(6)(A) & 1182(a)(7)(A)(i).

original). Vasenin is well within the 90-day removal period, and thus he is lawfully detained under section 1231(a). Accordingly, the Court should dismiss this petition.

III. THE COURT SHOULD DISMISS THE PETITION BECAUSE PETITIONER IS PROPERLY DETAINED UNDER 8 U.S.C. § 1225.[4]

Even if there were no final order of removal, and the Court reviewed Petitioner's argument on the merits as he presented them, Vasenin's pre-final order detention is still lawful under § 1225(b)(2). "As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)); *see also, e.g.*, *Southwest Airlines v. Saxon*, 596 U.S. 450, 457 (2022) ("As always, we begin with the text."). And "[i]f the statutory language is plain, [courts] must enforce it according to its term." *King v. Burwell*, 576 U.S. 473, 486 (2015).

The plain text of the INA mandates that Vasenin —who is present in the United States without being admitted—is correctly considered an "applicant for admission" and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *Jennings*, 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants of admission until certain proceedings have concluded."). Vasenin is thus properly detained under section 1225(b)(2) because he unambiguously falls within the statute's scope. And if any doubt remained, the structure and history of the statute dispel it by providing contextual support for Respondents' plain-text interpretation.

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[4] Unlike the preceding two sections, this legal question is also pending before this Court in *De Jesús Aguilar v. English*, case no. 3:25-cv-898-DRL-SJF (N.D. Ind. 2025).

A. Section 1225 Applies to All "Applicants for Admission."

Section 1225 governs the inspection, detention, and removal of aliens seeking admission into the United States. It specifically defines which aliens are deemed "applicants for admission." It provides (among other things) detailed procedures for handling them, including an expedited removal process, an asylum process, and detention requirements. *See, e.g.*, 8 U.S.C. § 1225(b)(1)(A)–(B). And it includes specific detention requirements for "an alien who is an applicant for admission." *Id.* § 1225(b)(2)(A).

1. Section 1225(a): Defining "Applicants for Admission"

Section 1225(a)(1) specifically defines the term "applicant for admission." In relevant part, it says that any "alien present in the United States who has not been admitted . . . shall be deemed . . . an 'applicant for admission.'" *Id.* Under its plain terms, all unadmitted aliens in the United States are "applicants for admission," regardless of their proximity to the border, the length of time they have been present here, or whether they ever had the subjective intent to properly apply for admission. *See id.*; *see also Digital Realty Tr., Inc. v. Somers*, 583 U.S. 149, 160 (2018) (cleaned up) ("When a statute includes an explicit definition, [courts] must follow that definition . . ."). Thus, under the plain text of the statute, Vasenin is an "applicant for admission" because he is a non-citizen, he was not admitted, and he was present in the United States when he was apprehended by ICE.

2. Section 1225(b): Mandatory Detention of "Applicants for Admission."

The Supreme Court has explained that "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings*, 583 U.S. at 287. Section 1225(b)(1) applies to aliens who are "determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation," while section 1225(b)(2) "is broader" and "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Ibid.* Applicants for admission who fall under section 1225(b)(1) are subject to expedited removal proceedings and "shall be detained" until removed (or until the end of asylum or credible-fear proceedings). 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV). Applicants for admission under section 1225(b)(2) do not face expedited removal but are subject to removal proceedings in the ordinary course pursuant to section 1229a. Significantly, the statute mandates that subsection (b)(2) applicants for admission also "shall be detained" for the pendency of their removal proceedings. 8 U.S.C. § 1225(b)(2)(A) ("an alien who is an applicant for admission" "*shall be detained* for a proceeding under [8 U.S.C. § 1229a]" "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.") (emphasis added); *see also* 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under § 1225 "shall be detained" pursuant to 8 U.S.C. § 1225(b)(2)); 8 C.F.R. § 235.3(c) (providing that "any arriving alien...placed in removal proceedings pursuant to [8 U.S.C. §

1229a] shall be detained in accordance with [8 U.S.C. § 1225(b)]" unless paroled pursuant to 8 U.S.C. § 1182(d)(5)).

Vasenin is properly classified as an "applicant for admission" under section 1225(b)(2). He entered the country without inspection, has never been admitted, has been here for several years, and has applied to remain in the United States indefinitely. *See* DE # 1, ¶ 68 (referencing his asylum application). Vasenin went through removal proceedings and received the benefits of the procedures (motions, hearings, testimony, evidence, and appeals) provided in section 1229a. Congress has mandated that he "shall be detained for a proceeding under § 1229a" like the one in which he is currently involved. 8 U.S.C. § 1225(b)(2). Thus, his detention at Miami Correctional Facility is not only lawful—it is statutorily mandated. This Court should therefore dismiss this petition.

B. Petitioner's Interpretation of Section 1225 is at Odds with Both Text and Context

Vasenin points to language in section 1225(b)(2) that refers to aliens who are "seeking admission." *See* DE # 1, ¶ 56. He argues that this phrase was intended to apply only to aliens who arrive and are being detained at the border and ports of entry. This interpretation is misguided. Section 1225(b)(2) applies to "the case of an alien who is an applicant for admission." Nowhere does it impose temporal or geographic limits on the applicants for admission to which it applies—it just applies to any "alien who is" one. 8 U.S.C. § 1225(b)(2). The term "alien seeking admission," meanwhile, is "best read as simply another way of referring to aliens who are applicants for admission." *Rojas v. Olsen*, 2025 WL 3033967, at *8 (E.D. Wis. Oct. 30,

2025). Thus, Vasenin asks the Court to place limitations on section 1225 that do not appear in the text of the statute. *Id.*

Other interpretive tools cut against Vasenin's interpretation of "seeking admission." One such tool is structural analysis, which favors interpretations that harmonize different sections of a statute. *See, e.g.*, *Abramski v. United States*, 573 U.S. 169, 179 (2014). Respondents' interpretation better harmonizes section 1225. Section 1225(b)(2)'s close neighbor, section 1225(a)(3), is instructive. It says that all aliens "who are applicants for admission or otherwise seeking admission" must be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The provision makes plain that those who are "applicants for admission" are themselves aliens "seeking admission." *Id.* And that understanding explains why Congress felt free to use the latter phrase as a synonym for the former in section 1225(b)(2).

Other contextual clues buttress this interpretation. BIA has long recognized that "many people who are not actually requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under immigration laws." *Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012). According to BIA, the phrase "seeking admission" in section 1225(b)(2)(A) must be read in the context of "applicant for admission" in section 1225(a)(1). Applicants for admission include arriving aliens and foreign nationals present without admission. *See* 8 U.S.C. § 1225(a)(1). Both are understood to be "seeking admission" under section 1225(a)(1). *See Lemus-Losa*, 25 I. & N. at 743. Again, this understanding suggests that "seeking admission" should be read as simply another way of referring

to aliens who are "applicants for admission." *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024) (noting that "longstanding practice of government...can inform a court's determination of what the law is" (cleaned up)).

Finally, this Court should reject Vasenin's contention that Respondents' interpretation of section 1225(b)(2) renders section 1226 superfluous. *See* DE # 1, ¶ 55. Vasenin argues that section 1226(c)'s specific categories for mandatory detention show that Congress did not intend all aliens apprehended in the interior to be subject to mandatory detention under section 1225(b). But the INA does not render these two provisions mutually exclusive, and there are many other categories of aliens to whom section 1226(a) is applicable, but not section 1225(b)(2). For one, aliens who overstay their visas fall under section 1226(a), not section 1225(b)(2). In fact, this was precisely the case in *Jennings*. There, Alejandro Rodriguez, a lawful permanent resident for several years, was convicted of a drug offense and then detained under section 1226. *Id.* at 289–90. Rodriguez was not an inadmissible alien nor an "applicant for admission"—he was an admitted alien, though one who faced removal due to his actions. Thus, Rodriguez's case discussed in *Jennings* is a paradigmatic example of an admitted alien who is not an "applicant for admission" but who subsequently became subject to removal under section 1226(a).

Ultimately, the plain text of section 1225(b)(2) makes clear that Vasenin is alien "applicant for admission" and subject to mandatory detention during the duration of his removal proceedings. Accordingly, the Court should dismiss this petition.

C. To the Extent it Matters, Legislative History Supports Respondents' Interpretation of Section 1225

Given that the statutory text is clear, the Court need not consider legislative history. *See Mohamad v. Palestinian Authority*, 566 U.S. 449, 459 (2012) ("Indeed, although we need not rely on legislative history given the text's clarity, we note that the history only supports our interpretation... ."). But to the extent it does, the history further supports Respondents' interpretation.

Congress enacted both 8 U.S.C. § 1225(b)(2) and 8 U.S.C. § 1226(a) as part of the IIRIRA in 1996. Before passage of that act, the INA only provided for inspection of aliens when they arrived at ports of entry. *See* former 8 U.S.C. § 1225(a) (1994). If, after inspection, immigration officers at a port of entry determined the alien was inadmissible, they would be placed into "exclusion" proceedings and were subject to mandatory detention. *See* former 8 U.S.C. § 1182(d)(5) (1994). In contrast, aliens who illegally entered the United States and were later discovered were placed into "deportation" proceedings and were eligible to request release on bond. *See* 8 U.S.C. § 1252(a)(1) (1994).

This structure led to an incongruous result: aliens who had lawfully appeared at a port of entry for inspection but were deemed inadmissible were ineligible for release on bond, while those who surreptitiously entered the country without inspection were entitled to request release on bond. *See Hurtado*, 29 I.&N. Dec. 216, (discussing statutory history); *see also Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010) ("This so-called 'entry doctrine' resulted in an anomaly. Under this regime, non-citizens who had entered without inspection could take advantage of the greater

procedural and substantive rights afforded in deportation proceedings, while non-citizens who presented themselves at a port of entry for inspection were subjected to more summary exclusion proceedings."); *Chavez*, 2025 WL 2730228, at *4 ("Prior to IIRIRA, an 'anomaly' existed 'whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully.") (quoting *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

Congress evidently found this unintended and undesirable result to be unacceptable. It amended the INA through the IIRIRA to replace the previous term "entry" with the term "admission" and to replace the former "exclusion" and "deportation" proceedings with more general "removal" proceedings. *See Martinez v. Att'y Gen. of the U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012). The House Report on the IIRIRA explained Congress's logic as follows:

> 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(I), 1996 WL 168995, at 225 (Leg. Hist. Mar. 4, 1996).

Vasenin seeks to undo Congress's deliberate legislative choice by engrafting geographic and/or temporal limitations onto the definition of "applicants for admission" provided in 8 U.S.C. § 1225(a)(1). If successful, he would effectively restore the former immigration regime that Congress determined was unacceptable. *Cf. Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (explaining that Congress's addition of 8 U.S.C. § 1225(a)(1) "ensures that all immigrants who have not been

lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA—in the position of an 'applicant for admission'"). Vasenin's interpretation would afford aliens who illegally enter the country and evade detection by immigration officers greater procedural protections than those available to aliens who lawfully present themselves for inspection at a port of entry. Yet such a counterintuitive and unjust result is belied by the plain text of the statute and is not the policy enacted into law by Congress.

D. There Is No Consensus Among the District Courts

Finally, Vasenin cites numerous district courts that have ruled that section 1225(b)(2) would not apply to him, suggesting some sort of consensus understanding of the statute has emerged in his favor. However, none of those decisions arise from this District or are binding upon this Court, which can engage in its own statutory analysis. Moreover, is important to note that a growing number of courts have agreed with Respondents' interpretation of 8 U.S.C. § 1225(b)(2). *See e.g.*, *Chavez v. Noem*, — F. Supp. 3d —, 2025 WL 2730228, at *4–5 (S.D. Cal. Sept. 24, 2025); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025) ("Because petitioner remains an applicant for admission, his detention is authorized so long as he is 'not clearly and beyond doubt entitled to be admitted' to the United States." (quoting 8 U.S.C. § 1225(b)(2)(A))); *see also Florida v. United States*, 660 F. Supp. 3d 1239, 1274–75 (N.D. Fla. 2023); *Rojas*, 2025 WL 3033967; *Sandoval v Acuna*, 2025 WL 3048926, at *1 (W.D. La. Oct. 31, 2025). These opinions faithfully applied the plain text of section 1225, as informed by the statute's context,

to hold that aliens like Petitioner shall be detained. This Court should do the same.

IV. PETITIONER'S DETENTION DOES NOT VIOLATE DUE PROCESS

Vasenin's due process claim fails because he never effected a lawful entry. *See Kaplan v. Tod*, 267 U.S. 228, 230 (1925) (holding that, despite nine years of physical presence on parole, a foreign national "was still in theory of law at the boundary line and had gained no foothold in the United States"). Without a lawful entry or admission, he has no more due process rights than what processes Congress chooses to provide him. *See DHS v. Thuraissigiam*, 591 U.S. 103, 114, 139–40 (2020); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) ("This Court has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative"); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) ("Whatever the procedure authorized by Congress is, it is due process[.]"); *cf. also Licea-Gomez v. Pilliod*, 193 F. Supp. 577, 580 (N.D. Ill. 1960) ("Nor does the fact that the excluded alien is paroled into the country . . . change his status or enlarge his rights. He is still subject to the statutes governing exclusion and has no greater claim to due process than if he was held at the border.").

To this end, the Supreme Court has also long applied the so-called "entry fiction" that all "aliens who arrive at ports of entry . . . are treated for due process purposes as if stopped at the border." *Thuraissigiam*, 591 U.S. at 139. Indeed, that is so "even [for] those paroled elsewhere in the country for years pending removal." *Id.* This fiction applies to Vasenin, who never lawfully entered the country.

In this case, Vasenin was given notice of the charges against him, had access to counsel, had hearings with an immigration judge, and had the right to appeal the IJ's order of removal. Those procedures were constitutionally sufficient. Vasenin's only plausible challenge to his detention is that he is detained under the wrong statute (he is not), which would make his detention unlawful, but it would not make it unconstitutional. *See Thuraissigiam*, 591 U.S. at 138–40; *cf. also Al-Shabee v. Gonzales*, 188 F. App'x 333, 339 (6th Cir. 2006) (unpublished) (Petitioner's "disagreement with the Immigration Judge's order, however, does not constitute a violation of the Due Process Clause"). Therefore, the court should reject Vasenin's due process claim.

CONCLUSION

For the foregoing reasons, the Court should dismiss the petition as moot or for lack of jurisdiction or, in the alternative, deny the petition.

Respectfully submitted,

M. SCOTT PROCTOR
Acting United States Attorney

/s/ Brian W. Irvin
BRIAN W. IRVIN
Assistant United States Attorney
United States Attorney's Office
5400 Federal Plaza, Suite 1500
Hammond, IN 46320
T: (219) 937-5500
F: (219) 852-2770
Brian.Irvin@usdoj.gov
Counsel for Respondents

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

Respondent Name:
VASENIN, SERGEI

To:
Sverdloff, Julia
120 S State Street
Suite 200
Chicago, IL 60603

A-Number:
[redacted]

Riders:
In Removal Proceedings
Initiated by the Department of Homeland Security
Date:
07/10/2025

ORDER OF THE IMMIGRATION JUDGE

☑ This is a summary of the oral decision entered on 07/10/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☐ removable ☑ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(7)(A)(i)(I)

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

☑ Asylum was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☑ Withholding of Removal under INA § 241(b)(3) was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☑ Withholding of Removal under the Convention Against Torture was ☐ granted ☑ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Deferral of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.

☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a $ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.

☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:

☐ Further information regarding voluntary departure has been added to the record.

☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

☐ the presumptive civil monetary penalty amount of $3,000.00 USD

☐ $ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

IV. Removal

☑ Respondent was ordered removed to Russia

☑ In the alternative, Respondent was ordered removed to Ukraine

☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

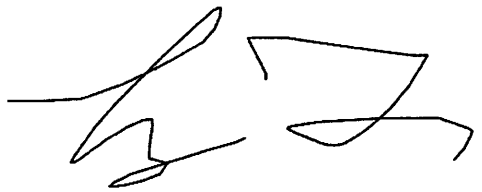
> If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

V. Other

☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.

☐ Respondent's status was rescinded under INA § 246.

☐ Other:



Immigration Judge: TREACY, ELIZABETH 07/10/2025

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

Appeal Due: 08/11/2025

Certificate of Service

This document was served:
Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [ ] Noncitizen | [ ] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS
Respondent Name : VASENIN, SERGEI | A-Number : [redacted]
Riders:
Date: 07/11/2025 By: GONZALEZ, LEONARDO, Court Staff

[redacted]

Person ID: [redacted] Sex: M DOB: [redacted] Current Age: 38 COB: RUSSI COC: RUSSI

Subject ID [redacted] Processing Disposition Other ICE Non Detained Portal Verified Account No RCA Look Up

Case # [redacted] Case Category [8B] Docket CHI_DET: Exotic 500 749 Wierzbiak

Final Order of Removal: No
Final Order Date: N/A
Proceed With Removal: N/A
Days Final Order in Effect: N/A

Time in Custody: 24 days
Depart / Cleared Status: ACTIVE

Special Class:

Current / Active Alerts

In Custody

Vasenin, Sergei [redacted]

Encounter Details

3 Encounter(s) linked to Person ID: [redacted]

	Ref#	Subject ID	A-Number	Last Name	First Name	COC	Historical Priority	DOB	Encountered on	Case	Case Category	
◉	3	[redacted]	[redacted]	VASENIN	SERGEI	RUSSI	No Priority	[redacted]	10/14/2025	[redacted]	8B	Unlink
○	2	[redacted]	[redacted]	VASENIN	SERGEI	RUSSI	No Priority	[redacted]	02/26/2023			Unlink
○	1	[redacted]	[redacted]	VASENIN	SERGEI	RUSSI	No Priority	[redacted]	10/22/2022	[redacted]	8B	Unlink

Encounter Details

All information below may only be edited in EAGLE

Event / Incident Information

Event Number: [redacted]
Event Occurred On **10/14/2025**
Event Type: **Fugitive Operations (Event)**
Program **FUG - Fugitive Operations**

Operation: **MDB: Midway Blitz**
Site **CHI**
Landmark: **CHIGEN - CHI GENERAL AREA, NON-SPECIFIC**

Primary Agent: **DANIELLE U519 AVILA**
Assigned On **10/14/2025**
Event Supervisor: **MARTIN LAGUNAS**
Assigned On **10/14/2025**

Subject Information

FINS: [redacted]
DNA Collection Device Number: [redacted]
A Number [redacted]
Control Name: **VASENIN**
First Name **SERGEI**
Middle Name: **N/A**
Maiden: **N/A**
Nickname **N/A**
Living?: **Y**
Sex **M**
Marital Status **Divorced**
SSN: **N/A**
Juvenile Verified **N/A**
Occupation: **LABORER**
TSC Log # **N/A**
NUIN # **N/A**

Historical Priority: **No Priority**
Criminal Type: **N/A**
Agg Felon **No Aggravated Felony Convictions**
Primary Citizenship: **RUSSIA**
Stateless Type **N/A**
Hair: **BLN**
Eyes: **BLU**
Complexion **N/A**
Race: **W**
Origin **N**
Date of Birth [redacted]
Age: **38**
Age at Encounter **38**
Height: **75**
Weight **190**
Speak/Understand English **Y**

Role: **P**
Role Comment: **N/A**
Processing Disposition **Other**
INS Status: **N/A**
POE **N/A**
Entry Date: **N/A**
Entry Class: **N/A**
Apprehension Date **2025-10-14 05:55:00.0**
Warrant served by Warrant Service Officer (WSO)? **N/A**
Arrest Method **Non-Custodial Arrest**
Site **CHI**
Landmark: **CHIGEN - CHI GENERAL AREA, NON-SPECIFIC**
Arrest At/Near **Chicago, IL**
Juvenile Status: **N/A**

SID Number N/A | Read/Write English: Y | Other Family Unit ID: N/A

TECS Subject # **N/A**

U.S. Veteran Status: **N**

Relationship to U S Veteran(s) **N/A**

Primary Language **RUSSIAN**

Family Members: **N/A**

Alien is the parent ***and also*** the primary caregiver of a minor within the United States **No**

Related Minor(s): **N/A**

Alien is the legal guardian of a minor within the United States: **No**

Related Minor(s) **N/A**

Alien is involved in active parental/child welfare proceedings of children located within the United States: **No**

Related Minor(s) **N/A**

CBP Separation Reason **N/A**

Accompanying Family Member Relation: **N/A**

Accompanying Family Member Subject ID **N/A**

Consequence Delivery System Selection: **N/A**

ICE Family ID: **N/A**

I-213 Narrative

Narrative 1 : Created Date: 10/14/2025 06:59 PM

ENCOUNTER:
Immigration and Customs Enforcement (ICE) is currently executing "Operation Midway Blitz" targeting immigration violators throughout the nation. The operation focuses on law enforcement operations in direct support of Presidential Executive Orders while ensuring personnel safety and maintaining tactical control while operating in a confined, civilian-heavy environment.

Public source information regarding the Chicago, Illinois metropolitan area estimates there are approximately 257,000 undocumented immigrants living in and around Chicago. Records also indicate approximately 50,000 illegal aliens were transferred to Chicago from border states between 2022 - 2024.

On October 14, 2025, I, U.S. Customs and Border Protection (CBP) Officer Timothy Klein of the Special Response Team (SRT) was working in support of Immigration and Customs Enforcement's Midway Blitz in Chicago, IL. I have 7 years of experience enforcing federal immigration law as a U.S. Customs and Border Protection Officer to include the enforcement of Title 8 violations.

On this date, I was operating in an unmarked government vehicle, wearing plainclothes but was wearing a full ballistic body armor with visible U.S. Customs and Border Protection and Police insignias that read "Police." I was readily identifiable as a United States Customs and Border Protection officer.

Teams working under Midway Blitz in Chicago and the surrounding areas are currently using an intelligence driven approach to conduct focused enforcement operations targeting illegal aliens within the interior of the United States. These areas have been previously identified as having a high concentration of illegal aliens utilizing CBP data holdings, agent observations, and data gleaned from interviews of individuals apprehended along the southwest border.

Officers are also provided with intelligence packets containing information on illegal aliens who have been found to be amenable to deportation or removal through extensive research from various DHS, CBP, and USBP databases. These packets include a signed I-200 (Warrant for Arrest of Alien).

On this date, my team was provided with an intelligence packet for VASENIN, Sergai. At approximately 0500hrs., I began surveillance operations at the intersection of Touhy and Sheridan Road in Chicago, Illinois where the targets vehicle was spotted. This address is associated within proximity of the subject's residence and due to his associated vehicle being parked there.

The Target was positively identified walking towards his vehicle from Touhy. VASENIN approached his vehicle to make entry, which was 1 car length in front of the vehicle I was in. SRT conducted a consensual encounter on VASENIN on the driver side of his vehicle where VASENIN stood and walked him to a safe area on the sidewalk off Sheridan. Officers identified themselves as federal law enforcement agents, and VASENIN was apprehended for violating United States Immigration laws.

At approximately 0555hrs., VASENIN, Sergai was advised that he was being placed under arrest for being present in the United States without the proper immigration documents allowing him to legally enter, remain, or work in the United States.

Body camera was on and activated. AXON Evidence #9XART

I, CBPOE J Cichy was not present for this arrest. I was given this case to disposition and process.

CITIZENSHIP AND REMOVABILITY:
Subject is a citizen and native of Russia. Subject makes no claim to US citizenship or current lawful immigration status. Subject is amenable to removal for violation of section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA), as amended.

VASENIN arrived to the San Ysidro Port of Entry on or about October 22, 2022 without documents and requested asylum. He was issued a Notice to Appear and was Paroled into the U.S. pending his immigration hearing. The immigration Judge in Chicago, Illinois ordered him removed on July 10, 2025. He filed an appeal with the Board of Immigration Appeals in August of 2025 which is still pending.

CRIMINAL HISTORY:
VASENIN has a criminal history under FBI# [redacted] for Domestic Violence. He was arrested by the Chicago Police Department on February 25, 2023 based on a warrant. No disposition is listed for that arrest.

HEALTH AND HUMANITARIAN:
Subject claims and appears to be in good health. VASENIN takes a prescribed nasal spray every 5 hours or so for panic attacks. His brother delivered the nasal spray to BSSA on 10/14/2025 and he took it at 2100.

FAMILY:
Subject claims his parents are citizens of Russia with no claim to US citizenship.

APPLICATIONS/PETITIONS:
VASENIN does not have any pending application for benefits before USCIS.

MOTIVATION:
Subject claims to have entered the United States to seek asylum.

FEAR:
Subject claimed fear of harm or persecution if returned to his country of citizenship.

Other:
He called a brother and talked to him for 15 minutes. He is divorced and has a 9 year old son and a step daughter. They lived primarily with his ex wife.

Disposition:
VASENIN was processed as a custody redetermination. He was served an I-286. An I-830 was completed. He will be held in ERO custody pending the BIA appeal. He was also served a copy of the Immigration Judge's order from EARM.

U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

Event #:

File No. [redacted]

Date: 10/14/2025

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that Sergai Vasenin is removable from the United States. This determination is based upon:

☐ the execution of a charging document to initiate removal proceedings against the subject;

☒ the pendency of ongoing removal proceedings against the subject;

☐ the failure to establish admissibility subsequent to deferred inspection;

☒ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or

☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

Rivas Esteban SDDO
(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at Chicago, IL (Location)

on Sergai Vasenin (Name of Alien) on 10/14/2025 (Date of Service), and the contents of this notice were read to him or her in the English (Language) language.

NS1903
Name and Signature of Officer

N/A
Name or Number of Interpreter (if applicable)

DEPARTMENT OF HOMELAND SECURITY

NOTICE OF CUSTODY DETERMINATION

Alien's Name: VASENIN, SERGEI A-File Number: [redacted]

Date: 10/14/2025

Event ID: [redacted] Subject ID: [redacted]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

☒ Detained by the Department of Homeland Security.

☐ Released (check all that apply):

- ☐ Under bond in the amount of $ _____
- ☐ On your own recognizance.
- ☐ Under other conditions. [Additional document(s) will be provided.]

LAGUNAS, MARTIN
Name and Signature of Authorized Officer

10/14/2025 9:16 PM
Date and Time of Custody Determination

ASDDO
Title

DOCKET CONTROL OFFICE CHICAGO CHICAGO, IL US
Office Location/Address

You may request a review of this custody determination by an immigration judge.

☒ I acknowledge receipt of this notification, and

☑ I do request an immigration judge review of this custody determination.

☐ I **do not** request an immigration judge review of this custody determination.

Signature of Alien

10/14/2025
Date

The contents of this notice were read to VASENIN, SERGEI (Name of Alien) in the ENGLISH (Name of Language) language.

CICHY, JONATHAN
Name and Signature of Officer

Name or Number of Interpreter (if applicable)

CBP OFFICER (ENFORCEMENT)
Title

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

VASENIN, SERGEI
[redacted]
C/O DHS CUSTODY
MIAMI CORRECTIONAL CENTER
3038 W 850 S
BUNKER HILL IN 46914

DHS/ICE Office of Chief Counsel - CHI
55 EAST MONROE, SUITE 1400
Chicago IL 60603

Name: VASENIN, SERGEI [redacted]

Date of this Notice: 11/3/2025

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Sverdloff, Julia
Gordon Sverdloff Immigration, LLC.
120 S State Street Suite 200
Chicago IL 60603

DHS/ICE Office of Chief Counsel - CHI
55 EAST MONROE, SUITE 1400
Chicago IL 60603

Name: VASENIN, SERGEI [redacted]

Date of this Notice: 11/3/2025

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Sergei VASENIN, [redacted]

Respondent

FILED
Nov 03, 2025

ON BEHALF OF RESPONDENT: Julia Sverdloff, Esquire

IN REMOVAL PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Chicago, IL

Before: Mann, Appellate Immigration Judge

MANN, Appellate Immigration Judge

A Notice of Appeal (Form EOIR-26) must be filed with the Board of Immigration Appeals within 30 calendar days of an Immigration Judge's oral decision, or the mailing or electronic notification of a written decision, unless the last day falls on a weekend or a legal holiday, in which case the appeal must be received no later than the next business day. 8 C.F.R. § 1003.38(b), (c). In the instant case, the Immigration Judge's decision was rendered on July 10, 2025. The appeal was accordingly due on or before Monday, August 11, 2025.

The record reflects that the Notice of Appeal was submitted by mail to the Board on August 8, 2025, but it was rejected on August 11, 2025, because the appeal was not filed electronically as required. The appeal was again filed with the Board on August 15, 2025. However, the appeal is untimely as the record reflects that the appeal was not perfected within the requisite period. While the respondent indicates a motion to accept the untimely appeal was filed, the record does not include such a motion. The appeal will be summarily dismissed pursuant to 8 C.F.R. § 1003.1(d)(2)(i)(G). The Immigration Judge's decision is accordingly now final. *See* 8 C.F.R. §§ 1003.3(a), 1003.38, 1003.39, 1240.14 and 1240.15.

As the Board's decision in this case addresses only the timeliness of the appeal and does not reach the merits of the Immigration Judge's decision, a party wishing to file a motion challenging the merits of the case must file the motion with the Immigration Court. *See Matter of Mladineo*, 14 I&N Dec. 591 (BIA 1974); *Matter of Lopez*, 22 I&N Dec. 16 (BIA 1998).

In light of the foregoing, the following order will be entered.

ORDER: The appeal is summarily dismissed.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at

the time and place required for removal by the Department of Homeland Security, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. *See* section 274D of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1324d; 8 C.F.R. § 280.53(b)(14). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. *See* INA § 276(a), 8 U.S.C. § 1326(a).