

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

NOEL ISAI SAMAYOA,

PETITIONER

v.

CIVIL ACTION NO. 5:25-cv-00190-BJB

ADAM SMITH, in his Official Capacity,
Jailer of Christian County;
SAM OLSON, in his Official Capacity,
Chicago Field Office Director,
Immigration and Customs Enforcement;
TODD LYONS, in his Official Capacity,
Acting Director, Immigration and Customs Enforcement;
KRISTI NOEM, Secretary,
Department of Homeland Security; and
PAMELA BONDI, United States Attorney General

RESPONDENTS

**RESPONDENTS' MOTION TO DISMISS AND
RESPONSE TO ORDER TO SHOW CAUSE**

Federal Respondents, Samuel Olson, Todd Lyons, Kristi Noem, and Pamela Bondi,¹ respectfully request the Court dismiss Petitioner Noel Isai Samayoa's habeas petition for lack of jurisdiction. As explained more fully below, the Court lacks subject matter jurisdiction to review the Agency's action to detain Samayoa, as it arises from the Agency's decision to commence his removal proceedings and would require the Court to answer legal questions. *See* 8 U.S.C. §§ 1252(b)(9), (g). Accordingly, the Court

¹ This response is filed on behalf of Federal Respondents Samuel Olson, Todd Lyons, Kristi Noem, and Pamela Bondi. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States' interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States' interests to the extent that the petition also names Adam Smith, the Christian County Jailer, as a respondent.

should dismiss the instant petition. If, however, the Court retains jurisdiction over the petition, the Court should deny it, because Samayoa is lawfully detained as an alien present in the United States without being admitted or paroled. *See* 8 U.S.C. § 1225(b).

BACKGROUND

Samayoa is Removable as an Inadmissible Alien Present in the United States Without Being Admitted or Paroled and as an Alien Without Valid Entry Documents.

Samayoa seeks a writ of habeas corpus under 28 U.S.C. § 2241, challenging the Department of Homeland Security (DHS), Immigration and Customs Enforcement's (ICE's) action to detain him, as part of the commencement of his removal proceedings. He seeks, *inter alia*, a declaration that this action violates his due process rights and the Immigration and Nationality Act (INA), and he asks this Court to order his release from immigration custody.²

Samayoa, a native and citizen of Guatemala, entered the United States without valid entry documents, at an unknown date and location, and without being admitted or paroled. [Doc. 1, PageID#12; Exhibit 1, Notice to Appear, at 1]. On October 14, 2025, ICE Deportation Officers stopped Petitioner's vehicle, confirmed he was the subject of a valid warrant, [Exhibit 2, Warrant for Arrest], arrested him based on a probable cause

² This motion and response describes Petitioner's filing as a habeas petition, despite his contention that his detention violates the Administrative Procedures Act (APA). [Doc. 1, PageID#65-70.] Courts in this circuit do not permit "combined habeas corpus and other civil claims to proceed together in one case." *J.O.B. v. United States*, 2024 WL 4011825, at 7 (S.D. Ohio Aug. 30, 2024) (collecting cases), *R. & R. adopted*, 2024 WL 4223636 (S.D. Ohio Sept. 18, 2024); *Ruza v. Michigan*, 2020 WL 4670556, at 2 (W.D. Mich. Aug. 12, 2020), *aff'd*, No. 20-1841, 2021 WL 3856305 (6th Cir. Apr. 7, 2021) (same). Habeas petitions and civil actions "have distinct purposes and contain unique procedural requirements that make a hybrid action difficult to manage." *Ruza*, 2020 WL 4670556, at 2. Should, however, the Court construe this otherwise, we respectfully request the Court provide the United States with additional time to file a supplemental brief.

determination that he was violating immigration laws, and transported him to a detention facility for further processing. [Exhibit 3, I-213 Narrative, at 2]. Thereafter, another Deportation Officer reviewed Petitioner's records and determined he had no lawful status in the United States and last entered without inspection. [*Id.* at 2].

Accordingly, a Supervisory Deportation and Detention Officer initiated Samayoa's removal proceedings by issuing a Notice to Appear (NTA). [Ex. 1, at 1]. Petitioner is charged with being inadmissible for being present in the United States without being admitted or paroled, in violation of 8 U.S.C. § 1182(a)(6)(i), and for not being in possession of valid entry documents, in violation of 8 U.S.C. § 1182(a)(7)(A)(i)(I). [Ex. 1 at 4].

He was, thereafter, detained, [Ex. 3, at 2], and he is scheduled to appear before an Immigration Judge on November 10, 2025. [Ex. 1, at 1]. Petitioner claims he is ineligible for lawful entry to the United States and therefore cannot seek admission, but he intends to seek cancellation of removal in his removal proceedings. [Doc. 1, PageID#40.]

LEGAL FRAMEWORK

I. 8 U.S.C. § 1252 Limits the Court's Jurisdiction to Review Certain Immigration Decisions and Actions.

"[T]he party invoking federal jurisdiction has the burden to prove that jurisdiction." *Glob. Tech., Inc. v. Yubei (XinXiang) Power Steering Sys. Co.*, 807 F.3d 806, 810 (6th Cir. 2015). Relevant here, Congress utilized two separate provisions of the INA, 8 U.S.C. §§ 1252(b)(9), (g), to direct district courts from entertaining certain habeas challenges. 8 U.S.C. § 1252(g) provides that "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.” This bars review of an alien’s claim that the government is “selectively enforcing immigration laws against them in violation of their First and Fifth Amendment rights,” because such claims represent a “challenge to the Attorney General’s decision to ‘commence proceedings’ against them.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 474, 487 (1999) (quoting 8 U.S.C. § 1252(g)). The decision to detain is a “specification of the decision to ‘commence proceedings’ which . . . § 1252(g) covers.” *Reno*, 525 U.S. at 485 n.9.

8 U.S.C. § 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.” 8 U.S.C. § 1252(b)(9) also specifies that “no court shall have jurisdiction, by habeas corpus under [28 U.S.C. § 2241] or any other habeas corpus provision . . . or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.” *Id.*; see also 8 U.S.C. § 1252(a)(5) (applying the same jurisdictional bar to “judicial review of an order of removal”). While § 1252(b)(9) may not bar claims challenging the conditions or scope of detention of aliens in removal proceedings,³ it does bar claims “challenging the decision to detain them in the first

³ This is not relevant here, as Samayoa does not challenge the conditions of his detention or scope of that detention during his removal proceedings. [*See generally* Doc. 1.]

place.” *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (plurality opinion); *see also id.* at 293 (discussing claims not barred by § 1252(b)(9)).⁴ Habeas petitions challenging the decision to detain in the first place require a court to answer “legal questions” that arise from “an action taken to remove an alien,” so such a claim would “fall within the scope of § 1252(b)(9).” *Id.* at 295 n.3 (plurality opinion).

II. Alternatively, as an Applicant for Admission, Petitioner Bears the Burden of Proving His Mandatory Detention is Unlawful Under 8 U.S.C. § 1225(b)(2).

Should the Court exercise jurisdiction over this case, the Court may only grant a writ of habeas corpus if the Petitioner shows he is in custody “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *see also Dickerson v. United States*, 530 U.S. 428, 439, n. 3 (2000) (“Habeas corpus proceedings are available only for claims that a person ‘is in custody in violation of the Constitution or laws or treaties of the United States,’” (quoting 28 U.S.C. § 2254(a)); *see also Caver v. Straub*, 349 F.3d 340, 351 (6th Cir. 2003) (“[I]n a habeas proceeding the petitioner ‘has the burden of establishing his right to federal habeas relief and of proving all facts necessary to show a constitutional violation.’”) (quoting *Romine v. Head*, 253 F.3d 1349, 1357 (11th Cir. 2001)).

⁴ *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 *Reno*, 525 U.S. at 482-83; *Demore v. Kim*, 538 U.S. 510, 523 (2003); and 8 U.S.C. § 1252(b)(9)).

As an inadmissible alien, Samayoa's detention is governed by § 1225(b). The Supreme Court's decision in *Jennings* controls this determination. Therein, the Court explained, "the Government must determine whether an alien seeking to enter the country is admissible." 583 U.S. at 287. An alien—such as Samayoa—"who arrives in the United States, or is present in this country but has not been admitted, is treated as an applicant for admission." *Id.* (cleaned up). This is further defined in 8 U.S.C. § 1225(a)(1) ("[a]n alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission") and 8 U.S.C. § 1101(a)(13)(A) ("[a]dmission" is "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer").

As an "applicant for admission," Samayoa must "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. The first of the two categories is found at 8 U.S.C. § 1225(b)(1), establishing the expedited removal process, including both the detention and removal of "aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.* Such aliens "are normally ordered removed 'without further hearing or review'" absent "either an intention to apply for asylum . . . or a fear of persecution" resulting in "an asylum interview." *Id.* (quoting 8 U.S.C. § 1225(b)(1)).

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) (with specific exceptions not relevant here)." *Jennings*, 583 U.S. at 287. Such aliens are subject to the 8 U.S.C. § 1229a removal statute and referred "for a removal proceeding if an

immigration officer determines that they are not clearly and beyond a doubt entitled to be admitted into the country.” *Id.* at 288 (cleaned up). Further, they “shall be detained for a [removal] proceeding’ if an immigration officer ‘determines that [they are] not clearly and beyond a doubt entitled to be admitted’ into the country.” *Id.* at 288 (quoting 8 U.S.C. § 1225(b)(2)(A)). Section 1225(b)(1) and (b)(2) “unequivocally mandate that aliens falling within their scope ‘shall’ be detained.” *Jennings*, 583 U.S. at 300.

ARGUMENT

I. The Court Should Dismiss This Habeas Petition, Because 8 U.S.C. §§ 1252(b)(9) and (g) Preclude Jurisdiction to Review it.

The Court lacks jurisdiction to consider this petition under two provisions of the INA. First, 8 U.S.C. § 1252(g) strips the Court of subject matter jurisdiction over Samayoa’s claims as they are “arising from the decision or action by [DHS] to commence proceedings, adjudicate cases, or execute removal orders against any alien” 8 U.S.C. § 1252(g); *see also Karki v. Jones*, 2025 U.S. App. LEXIS 20660, at 8-9 (6th Cir. Aug. 13, 2025) (explaining that § 1252(g) applies to habeas claims and does not violate the Suspension Clause). Samayoa challenges ICE’s decision to detain him, under 8 U.S.C. § 1225(b)(2), at the commencement of his removal proceedings, under U.S.C. § 1229a. The decision to detain, through processing him after his arrest on October 14, 2025, arose from the commencement of his removal proceedings, which began once the Notice to Appear was issued that same day. [Ex. 1, Notice to Appear; Ex. 2, Warrant for Arrest.] The detention, therefore, is “connected directly and immediately” with the commencement of Samayoa’s removal proceedings. *See Tsering v. USCIS*, 403 F. App’x

339, 343 (10th Cir. 2010) (quotation omitted). Thus, the Court cannot review the Agency's decision to detain him.

"Other circuits have recognized this straightforward point." *Ozturk v. Hyde*, No. 25-1019, 2025 WL 2679904, at *2 (2d Cir. Sept. 19, 2025) (Menashi, J., concurring in denial of rehearing en banc). "By its plain terms," § 1252(g) "bars [the courts] from questioning [the government's] discretionary decisions to commence removal" of the Petitioner, which include the "decision to take him into custody and to detain him during his removal proceedings." *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016); *see also Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013) ("Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings."); *Suri v. Trump*, No. 25-1560, 2025 WL 1806692, at 11 (4th Cir. July 1, 2025) (Wilkinson, J., dissenting) ("[W]hen the government detains an alien under § 1226(a) – which authorizes detention 'pending a decision on whether the alien is to be removed' – the detention arises from the commencement of proceedings or adjudication of cases."). Accordingly, "claims stemming from the decision to arrest and detain an alien at the commencement of removal proceedings are not within any court's jurisdiction." *Limpin v. United States*, 828 F. App'x 429, 429 (9th Cir. 2020); *see also Sissoko v. Rocha*, 509 F.3d 947, 949-50 (9th Cir. 2007) (petitioners' "detention arose from [the Agency]'s decision to commence expedited removal proceedings. As a result, 8 U.S.C. § 1252(g) applies to the [petitioners'] claim [W]e hold that 8 U.S.C. § 1252(g)'s jurisdiction-stripping language covers [their] false arrest claim . . . [which] directly challenges [the Agency's] decision to commence expedited removal proceedings."); *Jimenez-Angeles v. Ashcroft*,

291 F.3d 594, 599 (9th Cir. 2002) (“We construe § 1252(g), which removes our jurisdiction over ‘decisions to commence proceedings’ to include not only a decision in an individual case *whether* to commence, but also *when* to commence, a proceeding.”) (alterations omitted).

It is true that 8 U.S.C. § 1252(g) does not cover “all claims” arising from decisions to commence proceedings, adjudicate cases, or execute removal orders. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 487 (1999) (explaining the scope of § 1252(g) and holding that it deprived the court of jurisdiction because the claims arose from the commencement of proceedings); *see also Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020). But it continues to bar review of narrow matters “arising from” those decisions – such as the Agency’s decision to detain Samayoa. *See id.* Holding otherwise ignores the term “arising from” in the statute and flouts the maxim of statutory construction against superfluities. That maxim “instructs courts to interpret a statute to effectuate all its provisions, so that no part is rendered superfluous.” *Hibbs v. Winn*, 542 U.S. 88, 89 (2004). Deciding that § 1252(g) only revokes the Court’s jurisdiction over the Agency’s ultimate decision to commence proceedings, adjudicate cases, or executive removal orders renders the provision “arising from” superfluous. Accordingly, the Court should interpret § 1252(g) to revoke the Court’s jurisdiction to review the Agency’s decision to detain Samayoa, as it was “arising from” the Agency’s decision to commence his removal proceedings.

Secondly, 8 U.S.C. § 1252(b)(9) strips the Court of jurisdiction to review Samayoa’s habeas claims as the petition requires the Court to answer legal and factual

questions “arising from any action taken or proceeding brought to remove . . .” him. *See* 8 U.S.C. § 1252(b)(9). Legally, Samayoa asks the Court to interpret the INA to determine which legal authority authorizes his detention during his removal proceedings. [*See generally* Doc. 1.] By making such a challenge, the adjudication of this habeas petition would require the Court to answer the “legal question” that arises from the Agency’s “action taken to remove an alien.” *See* 8 U.S.C. § 1252(b)(9). Further, Samayoa seeks a declaration that he is not an “‘applicant for admission’ or ‘arriving alien’ subject to mandatory detention under 8 U.S.C. § 1225(b), and that Petitioner’s detention is governed solely by 8 U.S.C. § 1226(a).” [Doc. 1, PageID#55-56.] Such a holding would require the Court to make the factual determination that Samayoa was (1) admitted or paroled into the United States, or (2) has documentation authorizing his presence in the United States. It cannot do so.

If the Court exercised jurisdiction, in contravention of § 1252(b)(9), to make the factual determination as to his admissibility and/or the legal holding as to the statute governing his detention, it could create the absurd holding that “it is unconstitutional for the government to detain aliens pending removal for a reason that allows the government to remove them.” *Ozturk*, 2025 WL 2679904 at 2 (Menashi, J., concurring). This is exactly what Congress sought to preclude in § 1252(b)(9). “Congress channeled judicial review of removal proceedings into a single proceeding to avoid such an incoherent result.” *Id.* By enacting § 1252(b)(9), Congress plainly intended to put an end to the scattershot and piecemeal nature of the review process that previously had held sway in regard to removal proceedings.” *Aguilar v. ICE*, 510 F.3d 1, 9 (1st Cir.

2007) (citing H.R. Rep. No. 109-72, at 174). Congress designed the statutes “to consolidate and channel review of *all* legal and factual questions that arise from the removal of an alien into the administrative process, with judicial review of those decisions vested exclusively in the courts of appeals.” *Id.* It is reasonable to conclude, therefore, that the jurisdictional bars do not prevent the adjudication of a claim that is “unrelated to any removal action or proceeding,” *Delgado*, 643 F.3d at 55 n.3 (quoting *Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009)), or “independent of challenges to removal orders,” H.R. Rep. No. 109-72, at 176. But when petitioners, such as Samayoa, are “challenging the decision to detain them in the first place,” arguing there was no factual support for initiating removal proceedings or legal support for detaining them throughout the duration of those proceedings, that is a challenge to the removal proceedings that Congress has barred. *Jennings*, 583 U.S. at 294 (plurality opinion); *see also id.* at 314 (Thomas, J., concurring in part and concurring in the judgment) (“§ 1252(b)(9) removes jurisdiction over [aliens’] challenge to their detention.”).

Accordingly, this Court should dismiss Samayoa’s habeas petition for lack of jurisdiction. His arguments challenge decisions arising from the Agency’s decision to commence his removal proceedings and require the Court to answer legal and factual questions. Moreover, these questions may be presented before the immigration judge, the Board of Immigration Appeals (BIA), and then to the Sixth Circuit Court of Appeals in a petition for review.

II. Alternatively, the Court Should Deny the Habeas Petition, Because Samayoa is Lawfully Detained Under 8 U.S.C. § 1225(b)(2).

The Court should hold that Samayoa is being detained under 8 U.S.C. § 1225(b)(2). Even if the Supreme Court's decision in *Jennings* did not control this determination,⁵ the Court should accord *Skidmore* deference to the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 223 (BIA 2025) and hold that this statute to properly applies to the Petitioner.

As the BIA determined, "aliens who are present in the United States without admission are applicants for admission as defined under . . . 8 U.S.C. § 1225(b)(2)(A)[] and must be detained for the duration of their removal proceedings." *Hurtado*, 29 I. & N. Dec. at 220 (citing *Jennings*, 583 U.S. at 300 (holding that these provisions of the INA "unequivocally mandate that aliens falling within their scope [of section 1225(b)(1) and (2)] shall be detained")). The Court should defer to this persuasive interpretation of the statute, even if it is not bound by it. See *Pemberton v. Bell's Brewery, Inc.*, 150 F.4th 751, 763, n. 4 (6th Cir. 2025) (explaining that *Skidmore* deference survived the Supreme Court's decision in *Loper Bright Enters v. Raimondo*, 603 U.S. 369, 402 (2024); see also *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) (explaining that agency has always been one of the factors that may give an Agency's interpretation "power to persuade, if lacking power to control"))). Likewise, under *Loper Bright*, the Court should not defer to DHS's prior practices because those did not accord with the statutory text of §§ 1225

⁵ See *Jennings*, 583 U.S. at 287 (An "applicant for admission," must "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).").

and 1226.

Contrary to other holdings, *see e.g. Barrera*, 2025 WL 2690565, the BIA's decision is persuasive and accurately construes the statutory text. As the BIA explained, an "applicant for admission" under 8 U.S.C. § 1225(a)(1), by virtue of his entry without inspection, must necessarily be considered as "seeking admission," as the term of art is used in 8 U.S.C. § 1225(b)(2)(A). *Hurtado*, 29 I. & N. Dec. at 220; *see also Rojas v. Olson*, 2025 WL 3033967, at *8 (E.D. Wis. Oct. 30, 2025) (explaining that "seeking admission" "is best read as simply another way of referring to aliens who are applicants for admission"). This interpretation is also supported by agency precedent, *see Matter of Lemus*, 25 I&N Dec. 734, 743 and n.6 (BIA 2012) (noting that "many people who are not actually requesting permission to enter the United States in the ordinary sense [including aliens present in the United States who have not been admitted] are nevertheless deemed to be 'seeking admission' under the immigration laws"), and the Supreme Court's decision in *Jennings* which ignored the "seeking admission" portion of § 1225(b)(2)(A), instead interpreting the relevant portion of this provision to be whether an official determined they were "not clearly and beyond a doubt entitled to be admitted," *Jennings*, 583 U.S. at 281.

This interpretation also makes sense. The BIA explained how a contrary reading creates a "legal conundrum," because there "is no legal authority for the proposition that after some undefined period of time residing in the interior of the United States without lawful status, the INA provides that an applicant for admission is no longer 'seeking admission,' and has somehow converted to a status that renders him or her

eligible for a bond hearing under . . . 8 U.S.C. § 1226(a).” *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221.

Moreover, the Laken Riley Act, Pub. L. No. 119-1, January 29, 2025, 139 Stat. 3 (2025), does nothing to contradict this interpretation. Section 1226(c) was amended to require the Attorney General to take into custody certain “criminal aliens” who are deemed inadmissible, under specific grounds, who *also* “[are] charged with, . . . arrested for . . . convicted of . . . admits having committed or admits committing acts which constitute . . . burglary, theft, larceny, shoplifting, . . . assault of a law enforcement officer . . . or any crime that results in death or serious bodily injury to another” once that “alien is released.” 8 U.S.C. § 1226(c)(1)(E). This detention statute, by its plain meaning, applies only to certain criminal aliens being released from custody for that crime. And nothing in this portion of the INA “alter[s] or undermine[s] the provisions of . . . 8 U.S.C. § 1225(b)(2)(A), requiring that aliens who fall within the definition of the statute shall be detained for a proceeding under [8 U.S.C. 1229a].” *Hurtado*, 29 I. & N. Dec. at 222. If it did, the terms of 8 U.S.C. § 1225(b)(2)(A) would be rendered superfluous and thus, such interpretation “would be in contravention of the ‘cardinal principle of statutory construction,’ which is that courts are to ‘give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section.’” *Id.* (quoting *United States v. Menasche*, 348 U.S. 528, 538-39 (1955)).

Samayoa does not contest his removability for being present in the United States without being admitted or paroled. [see Doc. 1, PageID#9, 12, 40.] He effectively concedes he is an applicant for admission: an “[a]pplicant for admission” is “[a]n alien

present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). 8 U.S.C. § 1101(a)(13)(A) defines “[a]dmission” as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” Read in tandem with the statute’s plain terms, as the Court must do,⁶ the INA makes clear that all unadmitted aliens 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. Indeed, the INA makes clear that “applicants for admission” may be required to testify as to their “purposes and intentions . . . in seeking admission.” 8 U.S.C. § 1225(a)(5). It therefore follows that an “applicant for admission” and a person “seeking admission” are one and the same. To interpret those as distinct terms and not synonyms renders § 1225(b)(2) internally contradictory. Petitioner is an applicant for admission, but he states he is ineligible to seek admission. [Doc. 1, PageID#40 (“Petitioner is not ‘seeking an admission’ or ‘seeking lawful entry’ because he cannot. The INA bars him from seeking lawful entry

⁶ When interpreting a statute, “the inquiry ‘begins with the statutory text, and ends there as well if the text is unambiguous.’” *In re Vill. Apothecary, Inc.*, 45 F.4th 940, 947 (6th Cir. 2022) (quoting *Binno v. Am. Bar Ass’n*, 826 F.3d 338, 346 (6th Cir. 2016)); see also *King v. Burwell*, 576 U.S. 473, 486 (2015). Each word in the statute should be read in line with “its ordinary, contemporary, common meaning.” *Kentucky v. Biden*, 23 F.4th 585, 603 (2022) (quoting *Walters v. Metro. Educ. Enters., Inc.*, 519 U.S. 202, 207 (1997)). “The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997); see also *Beecham v. United States*, 511 U.S. 368, 372 (1994) (“The plain meaning that we seek to discern is the plain meaning of the whole statute, not of isolated sentences.”). Often, “the ‘meaning – or ambiguity – of certain words or phrases may only become evident when placed in context.’” *Id.* (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159 (2000)); see also *Stenberg v. Carhart*, 530 U.S. 914, 942 (2000) (“When a statute includes an explicit definition, we must follow that definition, even if it varies from that term’s ordinary meaning.”).

because he entered illegally and accrued unlawful presence of over one year.”.)] Section § 1225(b)(2) states that an “applicant for admission” must be detained unless he – i.e., the “alien seeking admission” – can prove beyond a doubt that he is entitled to be admitted. Petitioner’s interpretation of § 1225(b)(2) makes the statute incomprehensible. The Court should avoid this “patently absurd” interpretation which draws a distinction between the terms. *See United States v. Brown*, 333 U.S. 18, 27 (1948) (a court can reject the plain language interpretation of a statute if such an interpretation would lead to “patently absurd consequences”). While this may seem counterintuitive, “[w]hen a statute includes an explicit definition, [courts] must follow that definition.” *Digital Realty Tr., Inc. v. Somers*, 583 U.S. 149, 160 (2018) (cleaned up).

Although some district courts have taken issue with ICE’s interpretation of 8 U.S.C. § 1225 [Doc. 1, PageID#1-2], other courts have agreed with ICE’s interpretation. In *Chavez v. Noem*, the Southern District of California explained that “[s]uch a reading of the statute comports with Congress’ addition of § 1225(a)(1) by [the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)]. 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.’” *Chavez*, F.Supp.3d ----, 2025 WL 2730228 at 4–5 (quoting *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)). The addition of § 1225(a)(1), thus, “ensure[d] 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.’” *Torres*, 976 F.3d at 928; *see also Sandoval v.*

Acuna, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Pipa-Aquise v. Bondi*, 2025 WL 2490657, at *2 (E.D. Va. Aug. 5, 2025); *Pena v. Hyde*, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025); *Vargas Lopez v. Trump*, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). *But see, e.g., Barrera*, 2025 WL 2690565.

Just last week, the Eastern District of Wisconsin offered a detailed critique of Samayoa's arguments in *Rojas*, 2025 WL 3033967, a case in which the parties' arguments and circumstances are similar to those present here. Addressing the text of 8 U.S.C. §§ 1225 and 1226, the court held that the Petitioner "meets the definition of 'applicant for admission' in Section 1225(a)(1)," because he was "an alien 'present' in the United States and he has not been 'admitted.'" *Id.* at *8. "Under the plain terms of Section 1225(a)(1), he is 'deemed' an applicant for admission for purposes of Chapter 12 of Title 8, which governs Immigration and Nationality. Of all the statutory terms at issue, this is perhaps the most straightforward." *Id.* The *Rojas* court "attempted to review the statute as a whole, including all parts of the INA to which the parties refer," and concluded it could not "find a statutory basis to exclude Cirrus Rojas from the definition of 'applicant for admission' in Section 1225(a)(1)." *Id.* The *Rojas* court similarly rejected the Petitioner's claim that "additional language in Section 1225(b)(2) that refers to aliens who are 'seeking admission' . . . was intended to apply only to those aliens who arrive and are being detained at the border." *Id.* The *Rojas* Court noted that while "Section 1225(b)(2) . . . refers to aliens 'seeking admission,' . . . this language is best read as simply another way of referring to aliens who are applicants for admission." *Id.*

The *Rojas* court dismissed argument that the Laken Riley Act had relevance,

noting that “legislation passed in 2025 has little bearing on the meaning of legislation enacted in 1996,” “nothing in the Laken Riley Act suggests any Congressional thoughts concerning the issues presented in this case”, and that “[t]hese newly added provisions do not indicate anything with respect to either party’s proposed interpretation of Sections 1225 or 1226.” *Id.* at 9. The *Rojas* court likewise dismissed the Petitioner’s invocation of past agency practice, noting that “the Court concludes that it must follow the most natural reading of the statutory text” and “there is no estoppel against the federal government.” *Id.* The *Rojas* court also rejected the notion “that language in his arrest warrant citing Section 1226 entitles him to discretionary detention under Section 1226,” noting “[t]his language is best read not as an invocation of Section 1226 or an admission that that provision applies to Cirrus Rojas. Rather, it describes the agents to whom the warrant is directed and identifies two sources for their arrest authority.” *Id.* Addressing “the number of other district courts that have adopted [the petitioner’s] position,” the *Rojas* court noted that “[b]eyond numbers, neither party directs the Court to compelling analyses from any of these decisions.” *Id.*

As Samayoa is properly detained under 8 U.S.C. § 1225(b)(2), he cannot show that his detention violates his due process rights. “[D]ue process is flexible,” and “calls for such procedural protections as the particular situation demands.” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972); *see also Landon v. Plasencia*, 459 U.S. 21, 34 (1982). As an applicant for admission detained under 8 U.S.C. § 1225(b)(2), Samayoa does not have due process rights beyond those provided in 8 U.S.C. § 1225. *See DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (“[A]n alien in respondent’s position has only those rights

regarding admission that Congress has provided by statute.”). This “rests on fundamental propositions: ‘[T]he power to admit or exclude aliens is a sovereign prerogative’; the Constitution gives ‘the political department of the government’ plenary authority to decide which aliens to admit; and a concomitant of that power is the power to set the procedures to be followed in determining whether an alien should be admitted”. *Id.* at 139 (citations omitted). The *Rojas* court also provided useful analysis on this point, noting that aliens like Petitioner have limited liberty interests, and the United States has “a powerful interest in maintaining the detention in order to ensure that removal actually occurs.” 2025 WL 3033967, at *13-14. Further, there was little chance of erroneous deprivation of any rights because the petitioner was admittedly subject to removal, like Petitioner is here. *Id.* at *13.

Samayoa does not allege – nor can he – that the Agency failed to follow the procedures set forth in 8 U.S.C. § 1225. The record makes clear that he was given notice of the charges against him, he has access to counsel, and he will have an opportunity to be heard by an immigration judge. Accordingly, he cannot show that his detention violates any procedural due process rights.

CONCLUSION

Because the Court lacks jurisdiction, the Court should dismiss the instant petition. Alternatively, the Court should deny the petition, because Samayoa is lawfully detained under 8 U.S.C. § 1225(b)(2) and the Agency has afforded him his substantive and procedural due process rights.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on November 7, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Petitioner.

/s/ Timothy D. Thompson
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