IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JONY JAVIER MARTINEZ-SARRES *Petitioner*,	§	
v.	§	Civil No. 4:25-cv-05273
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, *et al.*, *Respondents.*	§	

RESPONDENTS' MOTION TO DISMISS PETITIONER'S WRIT OF HABEAS CORPUS

Respectfully Submitted,

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ATTORNEY FOR DEFENDANT

Federal[1] Respondents hereby submit this response per the Court's Order dated November 7, 2025. Dkt. 3.

In his petition for writ of habeas corpus (the "Petition"), Petitioner Jony Javier Martinez-Sarres ("Petitioner") requests the Court grant his Petition and order the Respondents to release him. Dkt. 1 at 16. The Petition should be denied.

Petitioner is lawfully detained on a mandatory basis under the Immigration and Nationality Act ("INA") section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. To the extent there was ever an ambiguity regarding which statue governs detention of illegal aliens such as Petitioner, the Boad of Immigration Appeals ("BIA") resolved that ambiguity on September 5, 2025. In a precedential decision, the BIA held that aliens present in the United States without being admitted or paroled such as Petitioner are subject to mandatory detention under Section 1225(b)(2) as applicants for admission. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

For these reasons, and those herein, the Court should deny the Petition.

FACTS AND PROCEDURAL HISTORY

Respondents do not contest Petitioner's proposed facts. Dkt. 1 ¶¶ 34-35.

ARGUMENT AND AUTHORITIES

On November 13, 2025, another court in the Southern District of Texas decided *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge), in the Government's favor. In denying the habeas petition and granting the Government's motion for summary judgment, the *Cabanas* Court held "[t]he text of § 1225(b)(2)(A) supports the Government's

[1] The United States Department of Justice does not represent the warden in this action. Federal Respondents, however, have detention authority over aliens detained under Title 8 of the United States Code.

position." The *Cabanas* Court reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5.

The Government urges the Court to follow the reasoning of the *Cabanas* Court.

I. The Petition should be dismissed because Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and review of a bond determination is beyond this Court's authority.

Petitioner's statutory argument fails on the merits because the plain text of the INA provides that he falls under the mandatory detention provisions of 8 U.S.C. § 1225 as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than designated by the Attorney General. *See Matter of Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

The INA authorizes civil detention of aliens during removal proceedings and "[d]etention is necessarily part of this deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see also* 8 U.S.C. § 1225(b), 1226(a), and 1231(a). Section 1225 authorizes the detention of applicants for admission. 8 U.S.C. § 1225(b)(1) and (2); *see also Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). The Supreme Court has recognized that §1225(b)(2) "applies to all applicants for admission not covered by § 1225(b)(1). Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a removal proceeding "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *see also Fla. v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023). While § 1225 does not provide for aliens to be released on bond, DHS has the sole discretion to temporarily release any applicant for

admission on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022). Under the plain language of INA § 235, 8 U.S.C. § 1225, Petitioner—who is present in the United States without being admitted—is subject to detention under § 1225(b)(2). *Jennings v. Rodriguez*, 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.").

A. The Immigration Judge Lacks Authority to Issue a Bond.

The Immigration Judge lacks authority to grant a bond in Petitioner's ongoing removal proceedings. As noted above, Petitioner is subject to mandatory detention under § 235(b) of the INA, 8 U.S.C. § 1225(b).[2] The BIA recently held that immigration judges lack the jurisdiction to hear bond requests from persons held under § 235(b). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Specifically, the BIA affirmed "the Immigration Judge's determination that he did not have authority over [a] bond request because aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.* at 220. The BIA performed a comprehensive review of the applicable statutory provisions and concluded that the plain language of the INA is "clear and explicit" in requiring mandatory detention of all aliens who are applicants for admission, without regard to how many years the alien has been residing in the United States. *Id.* at 226.

[2] Numerous courts, in this district, have concluded that petitioners like Mr. Martinez-Sarres should be classified as being detained under § 1226 as opposed to § 1225(b). *See Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 U.S. Dist. LEXIS 201967, at *5 (S.D. Tex. Oct. 7, 2025)(Rosenthal, J.); *see also Nery Ortiz-Ortiz v. Bondi*, Civil Action 5:25-cv-132 Dkt. 17 (S.D. Tex. Oct. 15, 2025)(Kazen, J.); *see also Baltazar v. Vasquez*, 5:25-cv-160 Dkt. 10 (S.D. Tex. Oct. 14, 2025)(Marmolejo, J.). None of these opinions are binding upon the Court. *See Woods v. Harris Cnty*, No. 22-20482, 2024 U.S. App. LEXIS 6684, at *8(citing *Camreta v. Greene*, 563 U.S. 692, 709 n. 7 (2011)).

Here, Petitioner is detained under § 212(a)(6)(A)(i) of the INA. *See* Exh. 1. He is therefore subject to mandatory detention. The *Yajure Hurtado* decision is binding precedent on immigration judges, and the decision affirmed that the IJ lacks authority to issue Petitioner a bond pending his removal from the United States. *See generally Matter of Yajure Hurtado*, 29 I. & N. at 225.

B. Judicial Review of Petitioner's Removal Proceeding is Unavailable under 28 U.S.C. § 2241.

Next, to the extent the Petitioner seeks judicial review of removal proceeding determinations, such claims should be dismissed. In the present action under 28 U.S.C. § 2241, there is no jurisdictional basis for this Court to review Petitioner's challenges to his removal proceeding. The "sole function" of habeas relief is to "grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose," which means that it "is not available to review questions unrelated to the cause of detention." *Pierre v. United States*, 525 F.2d 933, 935–36 (5th Cir. 1976).

In 2005, Congress enacted the REAL ID Act, which relied on explicit language demanded by *Demore v. Kim* to strip district courts of jurisdiction over habeas petitions challenging the Attorney General's discretionary decisions. *See Nolos v. Mukasey*, No. EP-08-CV-287-DB, 2008 WL 5351894, at *2 (W.D. Tex. Sept. 25, 2008) ("Congress enacted the REAL ID Act on May 11, 2005, which stripped district courts of jurisdiction over 28 U.S.C. § 2241 petitions attacking removal orders."). *See also* 8 U.S.C. § 1252(B)(ii) (supplying the language needed to strip habeas jurisdiction from district courts reviewing discretionary decisions of the Attorney General). *See Gutierrez-Soto v. Sessions*, 317 F.Supp.3d 917 (W.D. Tex. 2018).

Petitioner is challenging the mandatory detention charge of 8 U.S.C. § 1225(b)(2)(A). Dkt. 1 ¶¶ 1-8 and 13-37. However, the issue regarding his detention is not independent of challenges to Petitioner's ongoing removal proceeding. *See* Conference Report, H.R. Rep. No. 109-72, at 122, 175, reprinted at 2005 U.S.C.C.A.N. 240; *Baez v. ICE*, 150 Fed. App'x. 311 (5th Cir. 2005); *Hernandez v.*

Gonzales, 424 F.3d 42, 42 (1st Cir. 2005); *Igbaban v. Manuel*, No. 4:11-cv-1763, 2011 WL 1806428 (S.D. Tex. May 11, 2011); *De Los Santos v. Holder*, No. 4:10-cv-252, 2010 WL 334905 (S.D. Tex. Jan. 28, 2010). Specifically, challenges to both the basis for his detention and a charge of removability are identical. Therefore, there is no jurisdiction under the REAL ID Act to entertain the instant habeas petition.

In *Hernandez-Castillo v. Moore*, 436 F.3d 516, 519 (5th Cir. 2006), the Fifth Circuit held that the REAL ID eliminates habeas corpus review of final removal orders and removal-related claims except those entered under expedited removal provision at 8 U.S.C. § 1225(b)(1). However, this Court still has jurisdiction under 28 U.S.C. § 2241 to review statutory and constitutional challenges to immigration detention under *Zadvydas* (*Zadvydas v. Davis* 533 U.S. 678 (2001)), *provided that administrative remedies have been exhausted,* and, pursuant to 8 U.S.C. § 1252, as amended REAL ID Act, that the basis is: (a) not a matter solely reviewable by the court of appeals in a petition for review; (b) independent of challenges to Petitioner's removal proceeding; and (c) does not arise from the decision or action to commence proceedings, adjudicate cases or execute removal orders against an alien under the INA.

Because the habeas corpus action before the Court is not one involving the expedited removal provision of 8 U.S.C. § 1225(b)(1) or involve an issue under *Zadvydas*, the Court lacks subject matter jurisdiction over the Petition to the extent it asks the Court to enjoin removal under 28 U.S.C. § 2241.

II. Plaintiff's Due Process Claim Fails.

Last, the Petition fails to show any Due Process violation. Procedural due process protects an individual's right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridge*, 424 U.S. 319, 332-333 (1976). In the instant case, Petitioner was detained in October 2025 and is waiting for his hearing before an Immigration Judge to be schedule. There is no evidence that Petitioner will not receive a hearing before the Immigration Judge. There is no showing that his procedural due process rights have been violated. Further, the threshold question in assessing

substantive due process is whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience. *County of Sacramento v. Lewis*, 523 U.S. 833, 847 n. 8 (1998). The Petition does not suggest that any immigration officer involved in Petitioner's case acted in a manner that could be characterized as egregious or that would shock the conscience. Thus, the Due Process claim fails to show a material fact issue.

CONCLUSION

Petitioner is lawfully detained pending removal proceedings, and he does not claim any immigration status that would entitle him to immediate release from custody. Accordingly, the Court should deny this petition.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on November 20, 2025, the foregoing pleading was filed with the Court through the Court's CM/ECF system on all parties and counsel registered with the Court CM/ECF system.

/s/ *Ariel N. Wiley*
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