

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DISTRICT**

PAULO SERGIO VIEIRA DOS ANJOS

PETITIONER

v.

No. 5:25-cv-126-DCB-RPM

**RAFAEL VERGARA, WARDEN, ADAMS COUNTY
CORRECTIONAL CENTER**

RESPONDENT

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Paulo Sergio Vieira Dos Anjos, a native and citizen of Brazil, admittedly entered the United States without authority after having been previously detained and removed by immigration officials.¹ He is currently being held by immigration officials in the Adams County Correctional Center in Mississippi and is the subject of a final order of removal under 8 U.S.C. § 1231(a)(5).² He has allegedly filed a separate asylum action requesting that he be allowed to remain in the United States despite his removal order.³ He filed the instant Petition under 28 U.S.C. § 2241 asking this Court to order that he be transferred from the Adams County Correctional Center to a detention facility “in the New England area, including New Hampshire and/or Massachusetts” while he prosecutes his asylum request.⁴ His Petition should be denied. This Court lacks authority to grant Petitioner’s requested relief, and his Petition should be dismissed for lack of subject matter jurisdiction.

LEGAL FRAMEWORK

¹ Petition [1] at 4 (¶¶ 14-15).

² Decision to Reinstate Prior Order of Removal (Exhibit A).

³ Petition [1] at 4 (¶ 16).

⁴ *Id.* at 1-2 (¶¶ 1-3).

The Immigration and Nationality Act (“INA”), as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal. Before 1996, the INA required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings.⁵ In 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry.

Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020). To that end, IIRIRA replaced the prior focus on physical “entry” and instead made lawful “admission” the governing touchstone. IIRIRA defined “admission” to mean “the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C.

§ 1101(a)(13)(A) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country

⁵ At the time, the INA “provided for two types of removal proceedings: deportation hearing and exclusion hearings.” *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999). An alien who arrived at a port of entry would be placed in “exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole.” *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025); *see* 8 U.S.C. § 1225(a)-(b) (1995); 8 U.S.C. § 1226(a) (1995). In contrast, an alien who physically entered the United States unlawfully would be placed in deportation proceedings. *Id.*; *Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010). Aliens in deportation proceedings, unlike those in exclusion proceedings, “were entitled to request release on bond.” *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” H.R. Rep. 104–469(I), at 225 (1996) (emphasis added); *Hing Sum v. Holder*, 602 F.3d at 1100 (similar). IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into “removal proceedings.” *Hurtado*, 29 I. & N. Dec. at 223.

ARGUMENT

I. This Court lacks authority to grant Petitioner’s transfer request.

Petitioner readily admits he entered the United States multiple times without seeking proper authority. *See* Petition [1] at 4 (¶¶ 14-15). This includes his most recent entry in December 2019, which took place after he had already been deported under a removal order entered May 15, 2019. *Id.*; Exhibit A. Petitioner’s May 2019 removal order has since been reinstated under 8 U.S.C. § 1231(a)(5). Exhibit A. Despite these facts, Petitioner seeks to choose his place of detention, and he asks this Court to enter an order transferring him to a facility “in the New England area” while he pursues asylum proceedings. Petition [1] at 1-2 (¶¶ 1-3). This request should be denied.

As the Fifth Circuit has held, the determination of where a person is detained following the entry of a removal order is left, by statute, in the sound discretion of the Department of Homeland Security; it is “not amenable to judicial review.” *Sardella v. Holder*, 380 F. App’x 432, 434 (5th Cir. 2010) (citing 8 U.S.C. § 1226(e)). Thus, this Court lack authority to order that Petitioner be transferred to a holding facility in New England simply because such a transfer would allegedly place him closer to his relatives. *Id.*; *see also* Petitioner’s Opening Brief, Filippo SARDELLA, Petitioner, v. Eric H. HOLDER, Jr., U.S. Attorney General, Respondent., 2009 WL 6328353, at **17-19 (requesting that the Court order that Sardella to be transferred to a holding facility in New Jersey near his family).

II. Petitioner is not entitled to fees under the Equal Access to Justice Act.

Petitioner’s request for costs and attorneys’ fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, should also be denied. Petition [1] at 5. As explained above, this Court lacks jurisdiction to grant Petitioner his requested transfer. Because of this, the Court also lacks authority to award him costs.

Furthermore, although “EAJA is a limited waiver of sovereign immunity allowing for the imposition of attorney’s fees and costs against the United States in specific civil actions,” *Barco v. Witte*, 65 F.4th 782, 784 (5th Cir. 2023), *cert. denied sub nom. Gomez Barco v. Witte*, 144 S. Ct. 553, 217 L. Ed. 2d 294 (2024), “the EAJA does not authorize attorney’s fees for successful 28 U.S.C. § 2241 motions,” *id.* at 784. Therefore, this Court lacks authority to award EAJA fees regardless of its determination of the merits of Petitioner’s claim. *Id.* at 784.

CONCLUSION

For the reasons stated above, the Petition should be denied and dismissed.

Dated: December 8, 2025

Respectfully submitted,

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