UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 25-cv-25290-JB

FERNANDO JOSUE ARDON-QUIROZ,

Petitioner,

v.

ASSISTANT FIELD DIRECTOR, Krome North Service Processing Center, U.S. Immigration and Customs Enforcement; and FIELD OFFICE DIRECTOR, Miami Field Office, U.S. Immigration and Customs Enforcement,

Respondents.
_____/

RESPONSE TO ORDER TO SHOW CAUSE

Respondents hereby respond to the Court's Order to Show Cause [D.E. 4] why Petitioner Fernando Josue Ardon-Quiroz's Petition for Writ of Habeas Corpus [D.E. 1, "Petition"] should not be granted.

INTRODUCTION

Petitioner Fernando Josue Ardon-Quiroz ("Petitioner") alleges that he entered the United States as an unaccompanied alien child ("UAC") on July 27, 2022. *See* Petition at ¶¶ 1, 49. Petitioner was arrested on or about September 11, 2025, by Immigration and Customs Enforcement ("ICE"). *Id.* at ¶ 53. Petitioner is in custody at the Federal Detention Center pending removal proceedings. *See* Ex. A, EARM Detention History. Petitioner alleges that he was unlawfully denied a bond hearing pursuant to ICE policy that requires detention of those entering the United States without admission or inspection, as provided in INA § 235(b) (codified at 8 U.S.C. § 1225(b)). *See* Petition at ¶¶ 19, 48. Petitioner now challenges the lawfulness of his detention by ICE and seeks his immediate release from custody because he was apprehended after having lived in the United States since 2022, he is not an "arriving alien" subject to INA § 235, but instead subject to INA § 236(a) (codified at 8 U.S.C § 1226(a)). *See* Petition at ¶¶ 35–37, 69, "Prayer for Relief."

Petitioner is currently detained under 8 U.S.C. § 1225(b)(2)(A) and is therefore ineligible for release under 8 U.S.C. § 1226(a), a detention statute that allows for release on bond or

conditional parole. That argument fails to square with the fact that he falls within the statutory definition of aliens subject to detention pursuant to § 1225(b)(2)(A). Petitioner is an applicant for admission who entered the United States without inspection and is subject to § 1225(b)'s unequivocal requirement of detention.

FACTUAL BACKGROUND

On or about July 27, 2022, U.S. Border Patrol agents encountered Petitioner, a native and citizen of Honduras, at or near Hidalgo, Texas. Ex. B, Record of Deportable/Inadmissible Alien (July 28, 2022). Following a determination that Petitioner unlawfully entered the United States from Mexico at a time and place other than as designated by the Secretary of the Department of Homeland Security ("DHS") and was an unaccompanied minor, the agents issued a Notice to Appear ("NTA"), charging him with inadmissibility pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a)(6)(A)(i), as amended, as an alien who was not admitted or paroled after inspection by an immigration officer. Ex. C, Notice to Appear (July 27, 2022). Thereafter, Petitioner was transferred to the custody of the U.S. Department of Health and Human Services ("HHS"). Ex. D, Declaration of Deportation Officer Jesus R. Gonzalez Alverio; Ex. A, EARM Detention History.

On August 9, 2022, HHS released Petitioner to the custody of his mother, who agreed to ensure his presence at all future proceedings before DHS and the Department of Justice/Executive Office for Immigration Review ("EOIR"). Ex. E, HHS Verification of Release (Aug. 9, 2022). Because the NTA issued in 2022 was not served on the immigration court, on April 27, 2025, DHS served Petitioner with a Superseding Notice to Appear, charging him with inadmissibility pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a)(6)(A)(i), as amended, as an alien who was not admitted or paroled after inspection by an immigration officer. Ex. F, Superseding NTA (Apr. 27, 2025). The NTA required Petitioner's appearance before an immigration judge (IJ) in Orlando, Florida in March 2026. *Id.*

On September 11, 2025, Petitioner was encountered following a stop by the Florida Highway Patrol in conjunction with the § 287 program and was transferred to ICE ERO custody on the same date. Ex. G, Record of Deportable/Inadmissible Alien, dated September 11, 2025; Ex. A, EARM Detention History. Petitioner is now detained at the Krome Detention Center, having entered detention there on October 10, 2025. Ex. A, EARM Detention History.

On October 10, 2025, Petitioner's counsel filed a motion to advance Petitioner's hearing, which was denied as moot. Ex. H, Order of the Immigration Judge. On October 17, 2025, venue for Petitioner's removal proceedings was transferred to Krome Service Processing Center, and a hearing date was set for November 3, 2025. *Id.* On November 3, 2025, Petitioner, with counsel, appeared before the IJ, conceded service of the NTA, admitted the allegations, and conceded the charge of inadmissibility. Ex. D, Declaration of Officer Alverio. The IJ also granted Petitioner's motion to appear remotely, and Petitioner's next hearing date was scheduled for December 3, 2025. Ex. I, Order of the Immigration Judge; Ex. J, Hearing Notice for December 3, 2025.

On November 6, 2025, the immigration court conducted a custody redetermination hearing. Ex. D, Declaration of Officer Alverio. On November 12, 2025, the IJ denied Petitioner's motion for custody redetermination, finding that he is subject to mandatory detention. Ex. K, Order of the Immigration Judge in Custody Redetermination Proceedings. Petitioner reserved his right to appeal the decision. *Id.* To date, Petitioner has not appealed the IJ's custody redetermination decision. Petitioner remains detained within DHS custody at the Federal Detention Center in Miami, Florida.

On November 14, 2025, Petitioner filed this habeas petition, challenging his detention as an applicant for admission.

ARGUMENT

I. PETITIONER'S CLAIMS SHOULD BE DISMISSED FOR LACK OF JURISDICTION

A. 8 U.S.C. § 1252(e)(3) bars review of Petitioner's claim[s].

Section 1252(e)(3) deprives this court of jurisdiction, including habeas corpus jurisdiction, over Petitioner's challenge to his detention under § 1225(b)(2)(A). Section 1252(e)(3) limits judicial review of "determinations under section 1225(b) of this title and its implementation" to only the District Court for the District of Columbia. 8 U.S.C. § 1252(e)(3). Paragraph (e)(3) further confines this limited review to whether § 1225(b) or an implementing regulation is constitutional or 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 § 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). *See 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))

("'[W]here 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.' . . . We refrain from concluding here that the differing language in the two subsections has the same meaning in each. We would not presume to ascribe this difference to a simple mistake in draftsmanship.").

Petitioner challenges the determination that aliens who entered the United States without inspection are subject to mandatory detention under § 1225(b)(2). *See* Petition at ¶ 21, 38–39. Petitioner thus seeks judicial review of a written policy or guideline implementing § 1225(b), which is covered by § 1252(e)(3)(A)(ii), and divests this Court of jurisdiction over this Petition.

B. 8 U.S.C. § 1252(g) bars review of Petitioner's claims.

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"); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 298 (3d Cir. 2020) ("The text of § 1252(g) . . . strips us of jurisdiction to review... [T]o perform or complete a removal, the [Secretary of Homeland Security] must exercise [her] discretionary power to detain an alien for a few days. That detention does not fall within some other part of the deportation process.") (cleaned up) (internal quotations and citations omitted). Judicial review of the Petitioner's claim is barred by § 1252(g).

C. 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims.

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*"). Section 1252(b)(9) is 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*, No. CV 20-1330 (JRT/BRT), 2021 WL 195523, at *2 (D. Minn. Jan. 20, 2021) (citing *Nasrallah v. Barr*, 590 U.S. 573, 579–80 (2020)). Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means for judicial review of immigration proceedings.

> Notwithstanding any other provision of law (statutory or nonstatutory), . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter, except as provided in subsection (e) [concerning aliens not admitted to the United States].

8 U.S.C. § 1252(a)(5). "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) (emphasis in original); *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"); *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only when the action is "unrelated to any removal action or proceeding" is it within the district court's jurisdiction); *cf. Xiao Ji Chen v. U.S. Dep't of Justice*, 434 F.3d 144, 151 n.3 (2d Cir. 2006) (a "primary effect" of the REAL ID Act is to "limit all aliens to one bite of the apple" (internal quotation marks omitted)).

Critically, "[§] 1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, § 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."). Accordingly, the Court lacks jurisdiction over this action.

II. PETITIONER FAILED TO EXHAUST ADMINISTRATIVE REMEDIES.

The Court should dismiss the Petition for lack of jurisdiction as Petitioner failed to exhaust administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

Petitioner has not availed himself of the administrative remedies available to him. An IJ entered an order denying release under § 1226(a) on November 12, 2025. Rather than file an appeal with the BIA, the Petitioner filed this Petition. By regulation, the BIA has authority to review IJ custody determinations, not the district court. *See* 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38, 1236.1(d)(3). To the extent that Petitioner contends he is an UAC under the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA") who should not be subject to § 1225(b) detention, that specific argument should be exhausted before the BIA as a matter of statutory construction as EOIR has jurisdiction to review both statutory and constitutional claims. *See* 8 C.F.R. § 1003.0(b); EOIR PM 25-24, "Consideration of Constitutional Arguments in Agency Adjudications." Until the Petitioner avails himself of BIA review of the IJ's order, Petitioner has not exhausted his administrative remedies.

III. THE COURT SHOULD DISMISS THE PETITION FOR WRIT OF HABEAS CORPUS AS PETITIONER IS PROPERLY DETAINED UNDER 8 U.S.C. § 1225.

A. Applicants for admission are subject to detention under 8 U.S.C. § 1225.

Congress has established the requirements for admission of aliens that arrive at the border without authorization to enter." *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *4 (S.D.N.Y. June 12, 2018) (citing 8 U.S.C. § 1225). Under § 1225(a), "aliens who arrive at the nation's borders" without authorization to enter this country "are deemed 'applicants for admission,' and must be inspected by an immigration official before being granted admission." *Id.* (citing 8 U.S.C. § 1225(a)(1), (3)). Section 1225(a)(1) defines an "applicant for admission" as an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .) . . . ." 8 U.S.C. § 1225(a)(1); *see Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who

illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission.").

The term "applicant for admission" includes two categories of aliens: (1) arriving aliens, and (2) aliens present without admission. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . ."); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted" (citing § 1225(a)(1))).

Under § 1225(b), "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229(a) of this title [i.e., a removal proceeding]." *Id.* (quoting § 1225(b)(2)(A)) (brackets in original). "An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated Port-of-Entry . . . is subject to the provisions of [§ 1182(a)] and to removal under [§ 1225(b)] or [§ 1229a]." 8 C.F.R. § 235.1(f)(2). Thus, detention is mandatory for applicants for admission subject to § 1225(b).

Petitioner did not present himself at a Port-of-Entry ("POE") but instead entered the United States without having been admitted after inspection by an immigration officer and, consequently, an applicant for admission. Both arriving aliens and aliens present without admission, as applicants for admission, may, generally, be removed from the United States by expedited removal procedures under § 1225(b)(1) or removal proceedings before an IJ under § 1229a.[1] 8 U.S.C. §§ 1225(b)(1), (b)(2)(A), 1229a; *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing how "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)"). Immigration officers have discretion to apply expedited removal under § 1225(b)(1) or to initiate removal proceedings before an IJ under § 1229a. *E-R-M- & L-R-M-*, 25

---

[1] Under the TVPRA, removal of UACs is by way of 240 (1229a) proceedings. *See* 8 USC 1332(a)(5)(D).

I&N Dec. at 524; *see also Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) ("DHS may place aliens arriving in the United States in either expedited removal proceedings under [§ 1225(b)(1)], or full removal proceedings under [§ 1229a]" (citations omitted)).

B. Petitioner's Prior Status as an Unaccompanied Minor Does Not Foreclose the Application of 8 U.S.C. § 1225(b).

Contrary to his allegations in this case, Petitioner here is an "applicant for admission" subject to the removal and detention provisions at § 1225(b)(2). Petitioner entered the United States without being admitted or inspected on or about July 27, 2022, as an UAC. *See* Ex. B. Under the Homeland Security Act of 2002 ("HSA"), a UAC is someone who: "(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody." 6 U.S.C. § 279(g)(2) ("Section 279"). The HSA transferred the responsibility for care of UACs in Federal custody by reason of their immigration status to the Office of Refugee Resettlement ("ORR") within the Department of Health and Human Services ("HHS"). *Id.* § 279(a), (b)(1)(A). The TVPRA provides that "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services." 8 U.S.C. § 1232(b)(1) ("Section 1232"). Although the TVPRA transferred responsibility for care and custody of UACs to ORR, "it did not alter their immigration status." *Mendez Ramirez v. Decker*, et al., 612 F. Supp. 3d 200, 206 (S.D.N.Y. 2020).

An individual is not a UAC if and when he is released to a parent's custody. *Id.* Moreover, a UAC ceases to be a UAC when he turns eighteen. *Id.* at 212 (citing 6 U.S.C. § 279(g) (2)(B) and *Matter of Castro-Tum*, 27 I&N Dec. 271, 277 n.4 (2018)). Petitioner here was released to his mother's custody in 2022 and thus ceased being a UAC. Ex. E, HHS Verification of Release. And Petitioner does not, and cannot, allege that he was under the age of eighteen at the time of his arrest in September of 2025. Despite the fact that he was an UAC when he arrived in the United States in 2022, he was not an UAC when he was detained in September of 2025. Consequently, he is in the same position as any "applicant for admission," as contemplated by § 1225. Petitioner himself acknowledges that § 1225(b) and its mandatory detention scheme "applies to people arriving at U.S. ports of entry or who recently entered the United States." Petition at ¶ 45. Thus, Plaintiff is subject to the statute's mandatory removal and detention provisions.

C. Applicants for Admission in Expedited Removal Proceedings Are Detained Pursuant to 8 U.S.C. § 1225(b)(1).

Applicants for admission referred for § 1229a removal proceedings after establishing a credible fear of persecution or torture are ineligible for a custody redetermination hearing before an IJ. 8 U.S.C. § 1225(b)(1)(B)(ii) (providing for detention of any alien who is found to have established a credible fear of persecution in expedited removal proceedings for further consideration of their asylum application), (iii)(IV) ("Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed."); *see also* 8 C.F.R. § 235.3(b)(2)(iii) ("An alien whose inadmissibility is being considered under this section or who has been ordered removed pursuant to this section shall be detained pending determination and removal."), (b)(4)(ii) ("Pending the credible fear determination by an asylum officer and any review of that determination by an [IJ], the alien shall be detained."); *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019) (holding that aliens present without admission, placed in expedited removal, and transferred to § 1229a removal proceedings after establishing a credible fear of persecution or torture are subject to detention under § 1225(b)(1) and are ineligible for release under § 1226). Petitioner, as an applicant for admission in 8 U.S.C. § 1229a removal proceedings, is therefore subject to detention under 8 U.S.C. § 1225(b)(2)(A).

D. Applicants for Admission in 8 U.S.C. § 1229a Removal Proceedings Are Subject to Mandatory Detention Pursuant to 8 U.S.C. § 1225(b)(2)(A).

Applicants for admission whom DHS places in § 1229a removal proceedings are subject to detention under § 1225(b)(2)(A) and ineligible for a custody redetermination hearing before an IJ. Petitioner is an applicant for admission, as an alien present who has not been admitted, who is seeking admission into the United States. "An alien present in the United States who has not been admitted or who arrives in the United States" is deemed an "applicant for admission," who is "seeking admission" into the country. 8 U.S.C. §§ 1225(a)(1); 1225(b)(2)(A).[2]

Section 1225(b)(2)(A) "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Jennings*, 583 U.S. at 287; *see* 8 U.S.C. § 1225(b)(2)(A), (B). Under § 1225(b)(2)(A), "an alien who is an applicant for admission" "*shall be detained* for a proceeding under [§ 1229a]" "if the examining immigration officer determines that [the] alien

---

[2] *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (construing § 1225(b) and equating "applicants for admission," as used in (b)(1), with aliens "seeking admission," as used in (b)(2)).

seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphasis added); 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 § 1225(b)(2)); 8 C.F.R. § 235.3(c) (providing that "any arriving alien . . . placed in removal proceedings pursuant to [§ 1229a] shall be detained in accordance with [§ 1225(b)]" unless paroled pursuant to § 1182(d)(5)).

Thus, according to the plain language of § 1225(b)(2)(A), applicants for admission in § 1229a removal proceedings "*shall* be detained." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). "The 'strong presumption' that the plain language of the statute expresses congressional intent is rebutted only in 'rare and exceptional circumstances,' . . . ." *Ardestani v. INS*, 502 U.S. 129, 135–36 (1991) (quoting *Rubin v. United States*, 449 U.S. 424, 430 (1981)); *see Lamie*, 540 U.S. at 534 ("It is well established that when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms." (quotation marks omitted)). As observed in *Jennings*, nothing in § 1225(b)(2)(A) "says anything whatsoever about bond hearings." 583 U.S. at 297. Further, there is no basis for arguing that § 1225(b)(2)(A) applies only to arriving aliens. No provision within § 1225(b)(2) refers to "arriving aliens" or limits that paragraph to arriving aliens as Congress intended for it to apply generally "in the case of an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Where Congress means for a rule to apply only to "arriving aliens," it uses that specific term of art or similar phrasing. *See, e.g.*, *id.* §§ 1182(a)(9)(A)(i), 1225(c)(1).

E. An Immigration Judge Does Not Have Authority to Consider Release on Bond.

On September 5, 2025, the BIA issued its decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Yajure Hurtado*, 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." *Yajure Hurtado*, 29 I&N Dec. at 220.

The BIA concluded that aliens "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United States for a lengthy period of time following entry without inspection, by itself, does not constitute an 'admission.'" *Id.* at 228. To hold otherwise

would lead to an "incongruous result" that rewards aliens who unlawfully enter the United States without inspection and subsequently evade apprehension for number of years. *Id.*

In so concluding, the BIA rejected the alien's argument in *Yajure Hurtado*—essentially the same argument Petitioner makes here—that "because he ha[d] been residing in the interior of the United States for almost 3 years . . . he cannot be considered as 'seeking admission.'" *Id.* at 221. The BIA determined that the alien's argument "is not supported by the plain language of the INA" and creates a "legal conundrum." *Id.* If the alien "is not admitted to the United States (as he admits) but he is not 'seeking admission' (as he contends), then what is his legal status?" *Id.* (parentheticals in original). The BIA's decision in *Matter of Yajure Hurtado* is consistent not only with the plain language of § 1225(b)(2), but also with the Supreme Court's 2018 decision in *Jennings* and other caselaw issued after *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is "quite clear" and "unequivocally mandate[s]" detention. 583 U.S. at 300, 303 (explaining that "the word 'shall' usually connotes a requirement" (quoting *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 162, 171 (2016))).

Petitioner is mistaken in arguing that he is due a bond hearing pursuant to § 1226(a). Relying on *Jennings* and the plain language of §§ 1225 and 1226(a), the Attorney General, in *Matter of M-S-*, unequivocally recognized that §§ 1225 and 1226(a) do not overlap but describe "different classes of aliens." 27 I&N Dec. at 516. The Attorney General observed that section § 1226 provides an independent ground for detention upon the issuance of a warrant, but does not limit DHS's separate authority to detain aliens under § 1225, whether pending expedited removal or full removal proceedings. *Id.* Under the plain language of § 1225(b), all "applicants for admission" who are found "not clearly and beyond a doubt entitled to be admitted" are subject to detention under § 1225(b)—regardless of how long they have been present in the United States. *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (providing that "no amount of policy-talk can overcome a plain statutory command"); *see generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit"). The conclusion that "§ 1225(b)'s 'shall be detained' means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*." *Florida*, 660 F. Supp. 3d at 1273.

Given that § 1225 is the applicable detention authority for all applicants for admission—both arriving aliens and aliens present without admission alike, regardless of whether the alien was initially processed for expedited removal proceedings under § 1225(b)(1) or placed directly into removal proceedings under § 1229a —and "[b]oth [§§ 1225(b)(1) and (b)(2)] mandate detention … throughout the completion of applicable proceedings," *Jennings*, 583 U.S. at 301–03, Immigration Judges do not have authority to redetermine the custody status of an alien present without admission.

"It is well established . . . that the Immigration Judges only have the authority to consider matters that are delegated to them by the Attorney General and the [INA]." *Matter of A-W-*, 25 I&N Dec. 45, 46 (BIA 2009). "In the context of custody proceedings, an Immigration Judge's authority to redetermine conditions of custody is set forth in 8 C.F.R. § 1236.1(d) . . . ." *Id.* at 46. The regulation clearly states that "the Immigration Judge is authorized to exercise the authority in [8 U.S.C. § 1226]." 8 C.F.R. § 1236.1(d); *see id.* § 1003.19(a) (authorizing IJs to review "[c]ustody and bond determinations made by [DHS] pursuant to 8 C.F.R. part 1236"); *see id.* § 1003.19(h)(2)(i)(B) ("[A]n IJ may not redetermine conditions of custody imposed by [DHS] with respect to . . . [a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to [§1182(d)(5).]"). "An immigration judge is without authority to disregard the regulations, which have the force and effect of law." *Matter of L-M-P-*, 27 I&N Dec. 265, 267 (BIA 2018).

Here, Petitioner is an applicant for admission (specifically, an alien present without admission), placed directly into removal proceedings under § 1229a. He is therefore subject to detention pursuant to § 1225(b)(2)(A) and ineligible for a custody redetermination hearing before an IJ. Aliens present without admission in § 1229a removal proceedings are both applicants for admission under § 1225(a)(1) and aliens seeking admission under § 1225(b)(2)(A). As discussed above, such aliens placed in removal proceedings under § 1229a are applicants for admission as defined in § 1225(a)(1), subject to detention under § 1225(b)(2)(A), and thus ineligible for a bond redetermination hearing before the IJ. Such aliens are also considered "seeking admission," as contemplated in § 1225(b)(2)(A). To be sure, "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 the immigration laws." *Lemus*, 25 I&N Dec. at 743; *see Yajure Hurtado*, 29 I&N

Dec. at 221; *Q. Li*, 29 I&N Dec. at 68 n.3; *see also Matter of Valenzuela-Felix*, 26 I&N Dec. 53, 56 (BIA 2012) (explaining that "an application for admission [i]s a continuing one").

F. The Statutory History Does Not Support Petitioner's Claims.

The structure of the statutory scheme prior to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Pub. L. No. 104-208, div. C, 110 Stat. 3009-546 (1996) bolsters the understanding that under the current statutory scheme, all applicants for admission are subject to detention under § 1225(b). The broad definition of applicants for admission was added to the INA in 1996. Before 1996, the INA only contemplated inspection of aliens arriving at POEs. *See* 8 U.S.C. § 1225(a) (1995) (discussing "aliens arriving at ports of the United States"); *id.* § 1225(b) (1995) (discussing "the examining immigration officer at the port of arrival"). Relatedly, any alien who was "in the United States" and within certain listed classes of deportable aliens was deportable. *Id.* § 1231(a) (1995). One such class of deportable aliens included those "who entered the United States without inspection or at any time or place other than as designated by the Attorney General." *Id.* § 1231(a)(1)(B) (1995) (former deportation ground relating to entry without inspection). Aliens were excludable if they were "seeking admission" at a POE or had been paroled into the United States. *See id.* §§ 1182(a), 1225(a) (1995). Deportation proceedings (conducted pursuant to former § 1252(b) (1995)) and exclusion proceedings (conducted pursuant to former § 1226(a) (1995)) differed and began with different charging documents. *See Sale v. Haitian Ctrs. Council, Inc.*, 509 U.S. 155, 175 (1993) (explaining the "important distinction" between deportation and exclusion); *Matter of Casillas*, 22 I&N Dec. 154, 156 n.2 (BIA 1998) (noting the various forms commencing deportation, exclusion, or removal proceedings). The placement of an alien in exclusion or deportation proceedings depended on whether the alien had made an "entry" within the meaning of the INA. *See* 8 U.S.C. § 1101(a)(13) (1995) (defining "entry" as "any coming of an alien into the United States, from a foreign port or place or from an outlying possession"); *see also Rosenberg v. Fleuti*, 374 U.S. 449, 462 (1963) (concluding that whether a lawful permanent resident has made an "entry" into the United States depends on whether, pursuant to the statutory definition, he or she has intended to make a "meaningfully interruptive" departure).

Former § 1225 provided that aliens "seeking admission" at a POE who could not demonstrate entitlement to be admitted ("excludable" aliens) were subject to mandatory detention, with potential release solely by means of parole under § 1182(d)(5) (1995). 8 U.S.C. § 1225(a)-(b)

(1995). "Seeking admission" in former § 1225 appears to have been understood to refer to aliens arriving at a POE. *See id.* The legacy Immigration and Naturalization Service ("INS") regulations implementing former § 1225(b) provided that such aliens arriving at a POE had to be detained without parole if they had "no documentation or false documentation," 8 C.F.R. § 235.3(b) (1995), but could be paroled if they had valid documentation but were otherwise excludable, *id.* § 235.3(c) (1995). With regard to aliens who entered without inspection and were deportable under former 8 U.S.C. § 1231, such aliens were taken into custody under the authority of an arrest warrant, and like other deportable aliens, could request bond. *See* 8 U.S.C. §§ 1231(a)(1)(B), 1252(a)(1) (1995); 8 C.F.R. § 242.2(c)(1) (1995).

As a result, "'[aliens] who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' while [aliens] who actually presented themselves to authorities for inspection were restrained by 'more summary exclusion proceedings.'" *Martinez v. Att'y Gen.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012) (quoting *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010)). "To remedy this unintended and undesirable consequence, the IIRIRA substituted 'admission' for 'entry,' and replaced deportation and exclusion proceedings with the more general 'removal' proceeding." *Id.* Consistent with this dichotomy, the INA, as amended by IIRIRA, defines *all* those who have not been admitted to the United States as "applicants for admission." IIRIRA § 302.

Moreover, Congress's use of the present participle—seeking—in § 1225(b)(2)(A) should not be ignored. *United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes."). By using the present participle "seeking," 8 U.S.C. § 1225(b)(2)(A) "signal[s] present and continuing action." *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.*, 48 F.4th 1298, 1307 (11th Cir. 2022). The phrase "seeking admission" "does not include something in the past that has ended or something yet to come." *Shell v. Burlington N. Santa Fe Ry. Co.*, 941 F.3d 331, 336 (7th Cir. 2019) (concluding that "having" is a present participle, which is "used to form a progressive tense" that "means presently and continuously" (citing Bryan A. Garner, *Garner's Modern American Usage* 1020 (4th ed. 2016))). Thus, when pursuant to 8 U.S.C. § 1225(b)(2)(A) an "examining immigration officer determines" that an alien "is not clearly and beyond a doubt entitled to be admitted" the officer does so contemporaneously with the alien's present and ongoing action of seeking admission. Interpreting the present participle "seeking" as denoting an ongoing process is consistent with its ordinary usage. *See, e.g.*, *Samayoa*

v. Bondi, 146 F.4th 128, 134 (1st Cir. 2025) (alien inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) but "seeking to remain in the country lawfully" applied for relief in removal proceedings); *Garcia v. USCIS*, 146 F.4th 743, 746 (9th Cir. 2025) ("USCIS requires all U visa holders seeking permanent resident status under 8 U.S.C. § 1255(m) to undergo a medical examination . . ."). Accordingly, just as the alien in *Samayoa* is not only an alien present without admission but also seeking to remain in the United States, Petitioner in this case is not only an alien present without admission, and therefore an applicant for admission as defined in 8 U.S.C. § 1225(a)(1), but also an alien seeking admission under 8 U.S.C. § 1225(b)(2)(A).

Lastly, Congress's significant amendments to the immigration laws in IIRIRA support DHS's position that such aliens are properly detained pursuant to 8 U.S.C. § 1225(b)—specifically, § 1225(b)(2)(A). Congress, for example, eliminated certain anomalous provisions that favored aliens who illegally entered without inspection over aliens arriving at POEs. A rule that treated an alien who enters the country illegally, such as Petitioner, more favorably than an alien detained after arriving at a POE would "create a perverse incentive to enter at an unlawful rather than a lawful location." *Gambino-Ruiz*, 91 F.4th at 990 (quoting *Thuraissigiam*, 591 U.S. at 140) (rejecting such a rule as propounded by defendant). Such a rule reflects "the precise situation that Congress intended to do away with by enacting" IIRIRA. *Id.* "Congress intended to eliminate the anomaly '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 [POE]'" by enacting IIRIRA. *Ortega-Lopez v. Barr*, 978 F.3d 680, 682 (9th Cir. 2020) (quoting *Torres*, 976 F.3d at 928); *see also* H.R. Rep. No. 104-469, pt. 1, at 225–29 (1996).

As discussed by the BIA in *Matter of Yajure Hurtado*, 29 I&N Dec. at 222-24, during IIRIRA's legislative drafting process, Congress asserted the importance of controlling illegal immigration and securing the land borders of the United States. *See* H.R. Rep. 104-469, pt. 1, at 107 (noting a "crisis at the land border" allowing aliens to illegally enter the United States). As alluded to above, one goal of IIRIRA was to "reform the legal immigration system and facilitate legal entries into the United States . . . ." H.R. Rep. No. 104-828, at 1 (1996). Nevertheless, after the enactment of IIRIRA, the DOJ took the position—consistent with pre-IIRIRA law—that "despite being applicants for admission, aliens who are present without being admitted or paroled . . . will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10,323. Affording aliens

present without admission, who have evaded immigration authorities and illegally entered the United States, bond hearings before an IJ, but not affording such hearings to arriving aliens, who are attempting to comply with U.S. immigration law, is anomalous with and runs counter to that goal. *Cf.* H.R. Rep. No. 104-469, pt. 1, at 225 (noting that IIRIRA replaced the concept of "entry" with "admission," as aliens who illegally enter the United States "gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a [POE]").

G. Applicants for Admission May Only Be Released from Detention on an 8 U.S.C. § 1182(d)(5) Parole.

Applicants for admission may only be released from detention if DHS invokes its discretionary parole authority under § 1182(d)(5). DHS has the exclusive authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5); *see* 8 C.F.R. § 212.5(b). In *Jennings*, the Supreme Court placed significance on the fact that § 1182(d)(5) is the specific provision that authorizes release from detention under § 1225(b), at DHS's discretion. *Jennings*, 583 U.S. at 300. The Supreme Court emphasized that "[r]egardless of which of those two sections authorizes . . . detention, [§§ 1225(b)(1) or (b)(2)(A)], applicants for admission may be temporarily released on parole . . . ." *Id.* at 288.

Parole, like an admission, is a factual occurrence. *See Hing Sum*, 602 F.3d at 1098; *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025) (treating whether an alien was paroled as a question of fact). The parole authority under § 1182(d)(5) is "delegated solely to the Secretary of Homeland Security." *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 261 (BIA 2010); *see* 8 C.F.R. § 212.5(a). Thus, neither the BIA nor IJs have authority to parole an alien into the United States under § 1182(d)(5). *Castillo-Padilla*, 25 I&N Dec. at 261; *see also Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771, 777 n.5 (BIA 2002) (indicating that "parole authority [under § 1182(d)(5)] is now exercised exclusively by the DHS" and "reference to the Attorney General in [§ 1182(d)(5)] is thus deemed to refer to the Secretary of Homeland Security"); *Matter of Singh*, 21 I&N Dec. 427, 434 (BIA 1996) (providing that "neither the [IJ] nor th[e] Board has jurisdiction to exercise parole power"). Because DHS has exclusive jurisdiction to parole an alien into the United States, the manner in which DHS exercises its parole authority may not be reviewed by an IJ or the BIA.

Castillo-Padilla, 25 I&N Dec. at 261; *see Matter of Castellon*, 17 I&N Dec. 616, 620 (BIA 1981) (noting that the BIA does not have authority to review the way DHS exercises its parole authority).

Parole does not constitute a lawful admission or a determination of admissibility, 8 U.S.C. §§ 1101(a)(13)(B), 1182(d)(5)(A), and an alien granted parole remains an applicant for admission, *id.* § 1182(d)(5)(A. Parole does not place the alien "within the United States." *Leng May Ma*, 357 U.S. at 190. An alien who has been paroled into the United States under 8 U.S.C. § 1182(d)(5) "is not . . . 'in' this country for purposes of immigration law . . . ." *Abebe*, 16 I&N Dec. at 173 (citing, *inter alia*, *Leng May Ma*, 357 U.S. at 185; *Kaplan*, 267 U.S. at 228). Following parole, the alien "shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States," § 1182(d)(5)(A), including that they remain subject to detention pursuant to § 1225(b)(2).

H. Section 1226 Does Not Impact the Detention Authority for Applicants for Admission.

Section 1226(a) is the applicable detention authority for aliens who have been admitted and are deportable now subject to removal proceedings under §§ 1226, 1227(a), and 1229a, and does not impact the directive in § 1225(b)(2)(A) that "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceedings under [§ 1229a]," *id.* § 1225(b)(2)(A).[3] As the Supreme Court explained, § 1226(a) "applies to aliens already present in the United States" and "creates a default rule for those aliens by permitting—but not requiring—the [Secretary] to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at

---

[3] The specific mandatory language of § 1225(b)(2)(A) governs over the general permissive language of § 1226(a). "[I]t is a commonplace of statutory construction that the specific governs the general . . . ." *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992); *see RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (explaining that the general/specific canon is "most frequently applied to statutes in which a general permission or prohibition is contradicted by a specific prohibition or permission" and in order to "eliminate the contradiction, the specific provision is construed as an exception to the general one"); *Perez-Guzman v. Lynch*, 835 F.3d 1066, 1075 (9th Cir. 2016) (discussing, in the context of asylum eligibility for aliens subject to reinstated removal orders, this canon and explaining that "[w]hen two statutes come into conflict, courts assume Congress intended specific provisions to prevail over more general ones"). Here, § 1225(b)(2)(A) "does not negate [§ 1226(a)] entirely," which still applies to admitted aliens who are deportable, "but only in its application to the situation that [§ 1225(b)(2)(A)] covers." A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 185 (2012).

289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N Dec. at 516 (describing § 1226(a) as a "permissive" detention authority separate from the "mandatory" detention authority under § 1225).[4]

Generally, such aliens may be released on bond or their own recognizance, also known as "conditional parole." 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. Section 1226(a) does not, however, confer the *right* to release on bond; rather, both DHS and IJs have broad discretion in determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). Further, ICE must detain certain aliens due to their criminal history or national security concerns under § 1226(c). *See* 8 U.S.C. § 1226(c)(1), (c)(2); 8 C.F.R. §§ 236.1(c)(1)(i), 1236.1(c)(1)(i); *see also id.* § 1003.19(h)(2)(i)(D). Release of such aliens is permitted only in very specific circumstances. *See* 8 U.S.C. § 1226(c)(2).

Notably, § 1226(c) references certain grounds of inadmissibility, § 1226(c)(1)(A), (D)-(E), and the Supreme Court in *Barton v. Barr*—after issuing its decision in *Jennings*—recognized the possibility that aliens charged with certain grounds of inadmissibility could be detained pursuant to § 1226. 590 U.S. 222, 235 (2020); *see also Nielsen v. Preap*, 586 U.S. 392, 416-19 (2019) (recognizing that aliens who are inadmissible for engaging in terrorist activity are subject to § 1226(c)). However, in interpreting provisions of the INA, the Board does not view the language of statutory provisions in isolation but instead "interpret[s] the statute as a symmetrical and

---

[4] Importantly, a warrant of arrest is not required in all cases. *See* 8 U.S.C. § 1357(a). For example, an immigration officer has the authority "to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation" or "to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest . . . ." *Id.* § 1357(a)(2); 8 C.F.R. § 287.3(a), (b) (recognizing the availability of warrantless arrests); *see Q. Li*, 29 I&N Dec. at 70 n.5. Moreover, DHS may issue a warrant of arrest within 48 hours (or an "additional reasonable period of time" given any emergency or other extraordinary circumstances), 8 C.F.R. § 287.3(d); doing so does not constitute "post-hoc issuance of a warrant," *Q. Li*, 29 I&N Dec. at 69 n.4. While the presence of an arrest warrant is a threshold consideration in determining whether an alien is subject to § 1226(a) detention authority under a plain reading of § 1226(a), there is nothing in *Jennings* that stands for the assertion that aliens processed for arrest under § 1225 cannot have been arrested pursuant to a warrant. *See Jennings*, 583 U.S. at 302.

coherent regulatory scheme and fit[s], if possible, all parts into an harmonious whole." *Matter of C-T-L-*, 25 I&N Dec. 341, 345 (BIA 2010) (internal quotation marks omitted) (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000)). As the Supreme Court in *Barton* also noted, "redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication." *Barton*, 590 U.S. at 239. The statutory language of § 1226(c)—including the most recent amendment pursuant to the Laken Riley Act, *see* 8 U.S.C. § 1226(c)(1)(E), merely reflects a "congressional effort to be doubly sure" that certain aliens are detained, *Barton*, 590 U.S. at 239.

Congress expanded § 1225(b) in 1996 to apply to a broader category of aliens, including those aliens who crossed the border illegally. IIRIRA § 302. There would have been no need for Congress to make such a change if § 1226 was meant to apply to aliens present without admission. Thus, § 1226 does not have any controlling impact on the directive in § 1225(b)(2)(A) that "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under [§ 1229a]." 8 U.S.C. § 1225(b)(2)(A).

CONCLUSION

Petitioner is properly detained under 8 U.S.C. § 1225(b). Accordingly, the Court should deny Petitioner's habeas petition.

Dated: November 17, 2025

Respectfully submitted,

JASON A. READING QUIÑONES
UNITED STATES ATTORNEY

/s/ David Werner
DAVID WERNER
Assistant United States Attorney
Fla. Bar. No. 113436
99 N.E. 4th Street
Miami, Florida 33132
Telephone: (786) 439-3194
Facsimile: (305) 530-7139
Email: David.Werner@usdoj.gov
Counsel for United States of America

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the Service List via CM/ECF.

By: *<u>/s/ David Werner</u>*
David E. Werner
Assistant United States Attorney

Mark Andrew Prada
Fla. Bar No. 91997
Maitte Barrientos
Fla. Bar No. 1010180
Prada Dominguez, PLLC
12940 SW 128 Street, Suite 203
Miami, FL 33186
c. 786.238.2222
o. 786.703.2061
mprada@pradadominguez.com
maitte@pradadominguez.com

Cassandra DeCoste
Fla. Bar No. 1019992
Ashley Hamill
Fla. Bar No. 1022547
Family and Immigration Rights Center
P.O. Box 11331
Tallahassee, FL 32302
c. 850.619.2047
c. 850.841.9925
o. 850.739.0017
cdecoste@firclaw.org
ahamill@firclaw.org