UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

WELITON LOPES COSTA,

Petitioner,

v.

Case No.: 3:25-cv-1384-JEP-MCR

GARRETT J. RIPA, in his official capacity as Acting Field Office Director, U.S. Immigration and Customs Enforcement, Miami Field Office; TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; PAMELA BONDI, in her official capacity as Attorney General of the United States; and, KRISTI NOEM, in her official capacity as Secretary of Department of Homeland Security,

Respondents.
_____/

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Respondents, GARRETT J. RIPA, in his official capacity as Field Office Director of the U.S. Immigration and Customs Enforcement (ICE), TODD LYONS, in his official capacity as Acting Director of ICE, PAMELA BONDI, in her official capacity as Attorney General of the United States, and KRISTI NOEM, in her official capacity Secretary of the Department of Homeland Security (DHS) ("Federal Respondents"), respond to Petitioner Weliton Lopes Costa's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. Docs 1 or 3-1. The Court lacks

jurisdiction here. Apart from the lack of jurisdiction, Lopes Costa's detention is lawful. Thus, the Court should deny the writ and dismiss this action.

PRELIMINARY STATEMENT

On November 13, 2025, Petitioner is a 36-year-old citizen of Brazil, who filed this action pursuant to 28 U.S.C. § 2241. Docs 1 and 3-1. Petitioner asserts he is being detained at the Baker County Detention Center in Sanderson, Florida.[1] Doc. 3-1, ¶ 1 at p 1. By Order dated November 17, 2025, the Court ordered service of the Petition and directed Respondents to respond within 30 days of service upon the United States Attorney. Doc. 3. Because the decision to detain Petitioner is not subject to review, the Court lacks jurisdiction to entertain the relief sought or, alternatively, Petitioner fails to state a claim upon which relief can be granted.

FACTUAL BACKGROUND

On or about February 14, 2022, Petitioner entered the United States without inspection accompanied by his wife and child. Doc. 3-1, p. 64 (Exh C). Petitioner and his wife were subjected to a custodial interview by the Intelligence Collection Team (ICT). Upon reviewing the marriage certificate presented by Petitioner and after the custodial interview, the ICT determined that the marriage certificate presented a false marriage certificate, and that Petitioner was not married to the

[1] The Baker County Detention Center is operated out of a wing at the Baker County Jail in MacClenny, Florida. The North Florida Detention Center (NFDC), also called the Baker Correctional Institute, is operated at the site of the former or shuddered State of Florida men's prison known as the Baker Correctional Institution in Sanderson, Florida.

woman he represented to be his wife. *Id.* Although the child accompanying Petitioner was his biological child, the woman falsely presented as his wife was not the biological mother of Petitioner's child. *Id.* On February 24, 2022, ICE's Enforcement and Removal Operations (ERO) team returned Petitioner to Brazil. *Id.*

On May 10, 2022, as Petitioner attempted illegal entry into the United States, he was apprehended by the Department of Defense (DoD), Request for Assistance (RFA) at or near Lukeville Arizona. Doc. 3-1, p. 64. On May 13, 2022, Petitioner, who did not possess proper documentation that would allow entry, was apprehended by Customs and Border Patrol (CBP) at or near Otay Mesa, California Port of Entry, attempting to enter the United States without inspection. *Id.* On May 14, 2022, an administrative warrant for arrest of alien was issued by DHS, Doc. 3-1, p. 53 (Exh A), and CBP issued a Notice to Appear, placing Petitioner in removal proceedings for being present in the United States without being admitted or paroled pursuant to § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), as amended 8 U.S.C. § 1182(a)(6)(A)(i), Doc. 3-1, p 56 (Exh B) (Notice to Appear dated May 14, 2022). On May 18, 2022, ICE's ERO team enrolled Petitioner in the Alternatives to Detention (ATD) program and released him from custody; ATD was terminated on June 2, 2022. Doc. 3-1, p. 64. Three years later, on May 19, 2025, Petitioner filed Form I-914, for T Nonimmigrant Status, which is a temporary immigration benefit for victims of severe human trafficking. Doc. 3-1, p. 69 (Exh E) (Form I-797C, Notice of Action).

On September 18, 2025, Petitioner was arrested during a traffic stop in Levy County, Florida, and charged with driving without a valid license.[2] Doc. 3-1, p. 64. On October 6, 2025, DHS filed Form I-261, Additional Charges of Inadmissibility /Deportability, adding a charge pursuant to § 212(a)(7)(A)(i)(I), as amended 8 U.S.C. § 1182(a)(7)(A)(i)(I). Exhibit 1 (Form I-261). By notice dated November 26, 2025, Petitioner was scheduled for a master hearing on December 12, 2025.[3] Exhibit 2 (Notice of Internet-Based Hearing dated Nov. 26, 2025). Petitioner was denied bond by an immigration judge on October 10, 2025, for lack of jurisdiction based on 8 U.S.C. § 1225(b)(2)(A). Doc. 3-1, pp 75-78 (Ex G) (IJ Decision). Petitioner's wife, who is a United States citizen, filed Form I-130, Petition for Alien Relative, on October 27, 2025, which remains pending. Doc. 3-1, p. 72 (Exh F) (I-130 Petition).

As of the filing of the instant Petition on November 13, 2025, Petitioner had been in custody for approximately 56 days. As of today, Petitioner has been in custody for 84 days. Petitioner is not in expedited removal proceedings.

MEMORANDUM

1. Legal Standard.

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C.

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[2]The charge for driving without a license was dismissed.

[3]The undersigned has not been provided information regarding the result of the hearing or whether it was held.

§ 2241(c)(3). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021); *Martin v. Beto*, 397 F.2d 741, 749 (5th Cir. 1968).

2. Argument.

As explained, the Court lacks jurisdiction. Even if the Court disagrees, however, Lopes Costa's claims fail on the merits. Before getting to those matters, ICE must clarify its basis of detention. 28 U.S.C. § 2243.

A. Habeas Return on Detention.

In a habeas case, the respondent "shall make a return certifying the true cause of the detention." *Id.* ICE is detaining Lopes Costa under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2).

B. Jurisdiction.

This Court lacks jurisdiction over Lopes Costa's claims for three reasons.

1. Jurisdiction Stripping.

Federal courts have limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They "possess only that power authorized by Constitution and statute." *Id.* (citations omitted).

In immigration habeas cases related to removal proceedings—as here—the INA divests this Court of jurisdiction to consider Lopes Costa's claims challenging his detention pending a removal determination. 8 U.S.C. § 1252(g). "APA review does not apply when '(1) statutes preclude judicial review; or (2) agency action is committed

to agency discretion by law.'" *Kanapuram v. USCIS*, 131 F.4th 1302, 1306 (11th Cir. 2025) (quoting 5 U.S.C. § 701(a)).

There is no jurisdiction to review "any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). This provision bars habeas review in federal courts when the claim arises from "discrete acts of commencing proceedings, adjudicating cases, and executing removal orders." *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483 (1999) (cleaned up). These activities "represent the initiation or prosecution of various stages in the deportation process" that Congress had "good reason" to withhold from judicial review. *Id.*

When construing § 1252(g), one must limit the application "to just those three specific actions" listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, "courts must focus on the action being challenged." *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1258 (11th Cir. 2020). At bottom, § 1252(g) bars review if the conduct "to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim." *Gupta*, 709 F.3d at 1065.

The law is clear:

> Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings.

Id.; *see also Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (stating "[b]ecause [the alien] challenges the methods that ICE used to detain him prior to his removal

hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta.*"); *Johnson v. U.S. Attorney General*, 847 F. App'x 801, 802 (11th Cir. 2021). "By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process." *Alvarez*, 818 F.3d at 1203. So, § 1252(g) strips the Court of jurisdiction over habeas petitions challenging detention pending removal proceedings.

Here, Petitioner is being detained pending the conclusion of removal proceedings. Petitioner's detention is a decision or action related to the decision and actions by the Secretary to pursue Petitioner's removal proceedings. *See Gupta*, 709 F.3d at 1065 (citing § 1252(g) and stating "[f]ederal courts lack subject-matter jurisdiction over '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.'") Under *Gupta*'s binding interpretation of § 1252(g), the Court plainly has no jurisdiction. *Id. But see Garcia v. Noem et al.*, Case No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895, at *2 (M.D. Fla. Oct 31, 2025) (concluding § 1252(g) jurisdiction exists to determine whether petitioner is subject to mandatory or discretionary detention under 8 U.S.C. § 1225 or § 1226, respectively).

In *Gupta*, the petitioner was initially detained pursuant to DHS's decision to process him as an expedited removal pursuant to § 235(b)(1), as amended, 8 U.S.C.

§ 1225(b)(1), and the district court dismissed the action for lack of subject matter jurisdiction. On appeal, the Eleventh Circuit affirmed, reasoning that petitioner's claims were subject to dismissal because "[s]ecuring an alien while awaiting a removal determination constitutes an action taken to commence proceedings." 709 F.3d at 1065. Gupta was initially detained pursuant to DHS's decision to process him as an expedited removal pursuant to §235(b)(1).

Here, like in *Gupta*, Petitioner's claims arise from a decision or action to begin removal proceedings. As the Eleventh Circuit made clear, what matters is whether the challenged conduct arose from decisions or actions to commence removal proceedings. *Gupta*, 709 F.3d at 1065 ("Each of these claims, then, challenges the actions the agents took to commence removal proceedings—exactly the claims that § 1252(g) bars from the subject-matter jurisdiction of federal courts."). The Eleventh expressly reaffirmed this in several other decisions (both published and unpublished):

> Because [plaintiff] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.

Alvarez, 818 F.3d at 1204; *see also Johnson*, 847 F. App'x at 802. The decisions and actions to detain Lopes Costa (under either § 1225 or § 1226) arise from the commencement or pursuit of removal proceedings. The INA strips jurisdiction over that review. *Gupta*, 709 F.3d at 1065; 8 U.S.C. § 1252(g).

What's more, "the sole function of habeas corpus is to provide relief from Unlawful imprisonment or custody, and it cannot be used for any other purpose." *Cook*

v. Hanberry, 592 F.2d 248, 249 (5th Cir. 1979). So, the only relief a habeas petitioner may receive is release. *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020). Put differently, this case is only about whether ICE can detain Lopes Costa pending commence of removal proceedings. *Gupta* and its progeny hold the Court has no jurisdiction over such actions.

The Court also lacks jurisdiction on separate grounds.

2. Zipper Clause.

The INA precludes review of "all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States" except judicial review of a final order of removal. 8 U.S.C. § 1252(b)(9). This is known as the "zipper clause" and applies where a petitioner seeks "review of an order of removal [or] the decision to seek removal." *Canal A*, 964 F.3d at 1257; *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020). In reading this subsection alongside 8 U.S.C. § 1252(a)(5)—which limits review—courts conclude petitioners must funnel all aspects of challenges to removal proceedings through the avenue set out in § 1252(a)(5). *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (stating "[t]he REAL ID Act clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals."); *see also Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (concluding there is "clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals).").

The zipper clause restrictions are broad but not unlimited. *Canal A*, 964 F.3d at 1257. Still, a claim arising from actions or proceedings brought to remove an alien clearly falls within the clause. *See Regents of Cal.*, 591 U.S. at 19.

Here, Lopes Costa challenges ICE's detention determination. This is an action arising from ICE's decision or action to begin or pursue proceedings to remove him from the United States. The zipper clause is in full force; judicial review by this Court is inappropriate and contrary to the INA. 8 U.S.C. § 1252(b)(9).

There is one final jurisdictional issue.

*3. **Failure to Exhaust.***

Lopes Costa has yet to exhaust his administrative remedies. To the extent that Lopes Costa may argue futility in appealing to the BIA, he would be mistaken. *See McGee v. Warden, FDC Miami*, 487 F. App'x 516, 518 (11th Cir. 2012) (finding no jurisdiction on habeas petition where petitioner failed to exhaust remedies despite argument doing so would be futile). Futility is not a blank check to relieve a petitioner's duty to exhaust his remedies. Under exceptional circumstances, courts may excuse an exhaustion requirement. *See Sanchez v. Warden, FCC Coleman - Low*, No. 5:23-CV-79-WFJ-PRL, 2023 WL 4489472, at *2 (M.D. Fla. July 12, 2023); *Faison v. Warden, FCC Coleman,* No. 5:23-CV-67-WFJ-PRL, 2023 WL 4489471 (M.D. Fla. July 12, 2023); *Vasquez v. Warden, FCC Coleman Low*, No. 5:22-CV-517-WFJ-PRL, 2023 WL 4157364, at *2 (M.D. Fla. June 23, 2023). Yet there are no facts alleged to support that relief in this case.

4. Conclusion.

As explained, the Court lacks jurisdiction over this habeas action. Yet even if it disagrees, detention is still lawful.

C. Merits.

Lopes Costa challenges ICE's decision to detain him under either § 1225 or § 1226 and that his detention deprives him of due process. These claims fail as a matter of law because he is lawfully detained.

To interpret the relevant parts of the INA, courts first turn to the "plain meaning of the statute." *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). If the statutory text is clear, the analysis ends. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 674 (2020).

The statutory scheme in § 1225(a) provides: "An alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a); *Thuraissigiam*, 591 U.S. at 140. Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) fall under the § 1225(b)(2) catchall. *Jennings*, 583 U.S. at 287 (suggesting that INA § 235(b) applies to all applicants for admission, noting the broad application of INA § 235(b)(2) as a "a catchall provision" representing DHS's detention authority over applicants for admission not subject to INA § 235(b)(1)(A)(i). *See* 8 U.S.C. § 1225(b)(2)(A), (B). See also *Matter of M-S*, 27 I&N Dec. 509 (A.G. 2019) (Attorney

General holding that aliens who are present in the United States without admission or parole (PWAP) and placed into expedited removal (ER) proceedings are detained under INA § 235 even if later placed into removal proceedings); *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) (BIA holding that an alien PWAP and apprehended without a warrant while arriving is detained under INA § 235(b).

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the "alien shall be detained for a proceeding under section 1229a"—*i.e.*, full removal proceedings—after "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Read plainly, these subsections "mandate detention of applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE detained Lopes Costa under § 1225(b)(2). The Parties do not dispute he entered the United States illegally and without any authorization. Lopes Costa's detention pending his removal proceedings is not unlawful; rather, it is statutorily required. 8 U.S.C. § 1225(b)(2)(A); *see Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

To be fair, there are many recent decisions adverse to ICE's § 1225 position here. *E.g.*, *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 2809996, at *6 (D. Mass. Oct. 3, 2025). There are, however, decisions in support of ICE's text-based argument. *Vargas Lopez v. Trump* thoroughly addressed this issue and agreed with

ICE's reasoning. No. 8:25CV526, 2025 WL 2780351, at *7-10 (D. Neb. Sept. 30, 2025). At least one other court came to the same conclusion. *Chavez v. Noem*, No. 3:25-cv-02325-CAB-SBC, 2025 WL 2730228, at *4-5 (S.D. Cal. Sept. 24, 2025). And the BIA specifically explained this rationale in *Hurtado*, 29 I&N Dec. 216.

Lopes Costa argues that his detention cannot be supported under § 1225. Even so, Lopes Costa cannot meet his burden to establish detention under § 1226 should apply to him. Section 1226 is far broader than § 1225. Specifically, § 1226 applies to any "alien." 8 U.S.C. § 1226(a). An "alien" is "any person not a citizen or national of the United States." *Id.* § 1101(a)(3). Meanwhile, the phrase "applicant for admission" in § 1225(b)(2) has distinct meaning, and not every single alien entering without inspection falls under this provision. Rather, the facts and circumstances concerning Lopes Costa demonstrate he is an applicant for admission under § 1225(b)(2).

Lopes Costa admittedly has no permission or status to remain in this country. So, it's undisputed he has not been admitted to the United States. Put differently, Lopes Costa must be an applicant for admission if he wants to stay here. *Vargas Lopez*, 2025 WL 2780351, at *9 (concluding that if petitioner "wishes to stay in this country[,]... [t]his makes [him] an 'applicant for admission,' consistent with the conclusion of the BIA in *Hurtado* and *Jennings*."). The alternative would be seeking an Order to somehow remain unlawfully in the United States. *Id.* (That petitioner "illegally remained in this country for years does not mean that he is suddenly not an 'applicant for admission' under § 1225(b)(2)."); *Hurtado*, 29 I&N at 221 (stating "[i]f

he 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?"). At bottom, unless Lopes Costa wants to leave, he is either an applicant for admission or seeking to remain here illegally.

To be clear, any alien intending to stay in the United States on any permanent basis must be admitted even if that's twenty years after arriving. In the context of immigration law, "admission" is not like sneaking into a second showing at the movie theater where entry is *de facto* admission. Rather, this is a legal term of art. *Matter of Lemus Losa*, 25 I. & N. Dec. 734, 743 n.6 (BIA 2012) (noting "seeks admission" used by Congress "as a term of art"). The terms "admission" or "admitted" here 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).

Congress knows how to use a term of art. *E.g.*, *FAA v. Cooper*, 566 U.S. 284, 292 (2012) (stating "it is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken." (cleaned up)). Lopes Costa may have been living in the United States illegally for years; but he was never admitted—which is what makes his presence unlawful in the first instance. 8 U.S.C. § 1182(a)(6)(A)(i) (inadmissibility for presence "without being admitted"). The INA treats aliens as seeking admission even if they entered illegally and never formally applied. 8 U.S.C. § 1225(a)(1); *Lemus Losa*, 25 I. & N. Dec. at 743 n.6 (Unlawful entrants "deemed *constructive* applicants for admission by operation of"

§ 1225(a)(1).). Legislative word choices—especially terms of art—must have meaning. Congress chose to define "applicants for admission" as "[a]n alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1).

The recent enactment of the Laken Riley Act bolsters this conclusion. *See* Pub. L. No. 119-1, 139 Stat. 3 (2025). There, the categories of individuals subject to mandatory detention expanded to include those who entered the United States and were charged as inadmissible under § 1182(a)(6)(A)(i) or (a)(7) and have committed—or been charged or convicted of—certain specified crimes. *See* 8 U.S.C. § 1226(c)(1)(E). Were "applicant for admission" under § 1225 interpreted narrowly, then there would be no need to pass the Laken Riley Act. Those aliens now covered by § 1226(c)(1)(E) would have already been subject to mandatory detention. Even if there are redundancies, those "are common in statutory drafting" and provide no "license to rewrite or eviscerate another portion of the statute contrary to its text." *Barton v. Barr*, 590 U.S. 222, 229 (2020) (stating "[t]he Court has often recognized: Sometimes the better overall reading of the statute contains some redundancy." (cleaned up)).

Finally, the fact that longstanding practice may have differed is not dispositive. The Constitution empowers the Judiciary to exercise judgment regarding the interpretation of laws independent from the political branches. U.S. Const. art. 3, § 2, cl. 1; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). The question for this Court is not ICE's historical practice; instead, the inquiry is the correct statutory

interpretation. As discussed, the best reading of the INA is what its words say—confirming ICE may detain Lopes Costa under § 1225(b)(2).

As explained, Lopes Costa's detention under § 1225(b)(2) is lawful. The INA mandates his detention.

CONCLUSION

Based on the foregoing reasons and citations of authority, the Court must deny the Petition and dismiss this action.

Dated: December 19, 2025

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

/s/ Ronnie S. Carter
RONNIE S. CARTER
Assistant United States Attorney
Florida Bar No. 0948667
300 North Hogan Street, Suite 700
Jacksonville, FL 32202-4270
Telephone No. (904) 301-6322/6300
Facsimile No. (904) 301-6240
Email: Ronnie.Carter@usdoj.gov
Attorneys for Federal Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 19, 2025, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system. I further certify that, upon filing, I will place, as expeditiously as possible, a copy of the foregoing document in first-class mail to the following non-CM/ECF participant listed below:

Ralph Strzalkowski, Esquire
The Lawyer on Wheels PLLC
9200 NW 39th Avenue, Suite 130-3281
Gainesville, Florida 32606
Email: rs@lawyeronwheels.org
Counsel for Petitioner

/s/ Ronnie S. Carter
RONNIE S. CARTER
Assistant United States Attorney

U.S. Department of Homeland Security
Bureau of Immigration & Customs Enforcement **Additional Charges of Inadmissibility / Deportability**

In: [ ] Removal proceedings under section 240 of the Immigration and Nationality Act.
[ ] Deportation proceedings commenced prior to April 1, 1997 under former section 242 of the Immigration and Nationality Act.

In Matter of:

Alien / Respondent: WELITON LOPES COSTA

File No: [redacted] Address: 1 Sheriffs Office Drive, Macclenny, Florida 32063

There is hereby lodged against you the additional charge(s) that you are subject to being taken into custody and deported or removed from the United States pursuant to the following provision(s) of law:

CHARGE(S):

212 (a) (7) (A) (i) (I) of the Immigration and Nationality Act (Act), as amended, an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211 (a) of the Act.

In support of the additional charge(s) there is submitted the following factual allegation(s) in addition to those set forth in the original charging document:

You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act.

Dated: 10/6/2025

CARRIE C LEE Digitally signed by CARRIE C LEE Date: 2025.10.06 07:38:52 -04'00'

(Signature of ICE Counsel)

Form I-261 (Rev. 4/1/97)N

Additional Allegations (continued)

Notice to Respondent

Warning: Any statement you make can be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are to carry it with you at all times.

Representation: If you so chose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review. Unless you so request, no hearing will be schedule earlier than ten days form the date of this notice, to allow you sufficient time secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the Hearing: At the time of the hearing, you should bring with you any affidavits or other documents which you so desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the charging document and that you are inadmissible or deportable on the charges contained in the charging document. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the BICE, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceedings. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the BICE.

CERTIFICATE OF SERVICE

This charging was served on the respondent by me on October 6, 2025, in the following manner and in compliance with section 239(a)(1)(F) of the Act:

[ ] in person [ ] by certified mail, return receipt requested [X] by regular mail

to: Weliton Lopes Costa, 1 Sheriffs Office Drive, Macclenny, Florida 32063
(Alien's address)

[ ] The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

CARRIE C LEE Digitally signed by CARRIE C LEE Date: 2025.10.06 07:39:21 -04'00'

(Signature of Respondent if personally served) (Signature and title of officer)

Form I-261 (Rev. 4/1/97)N (IN212-43)

EOIR - 2 of 2

Exhibit 2

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

LEAD FILE: [redacted]
IN REMOVAL PROCEEDINGS
DATE: Nov 26, 2025
EAD Clock:

TO: Cunha Law PLLC
Faiad da Cunha , Leopoldo
121 S Orange Ave
Set 1470
Orlando, FL 32801

RE: [redacted] LOPES COSTA, WELITON

Notice of Internet-Based Hearing

Your case has been scheduled for a MASTER hearing before the immigration court on:

Your hearing is not in person. You will access your hearing by using the web page below.
URL: https://eoir.webex.com/meet/IJ.Espinal

Date: Dec 12, 2025
Time: 2:30 P.M. ET
Court Address: 20706 FL-10, SANDERSON, FL 32087

Representation: You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at https://www.justice.gov/eoir/list-pro-bono-legal-service-providers is a list of free legal service providers who may be able to assist you.

Failure to Appear: If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

Change of Address: The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at https://respondentaccess.eoir.justice.gov/en/ or by completing the enclosed paper form and mailing it to the immigration court listed above.

Internet-Based Hearings: If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at https://www.justice.gov/eoir/eoir-immigration-court-listing.

In-Person Hearings: If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call **1-800-898-7180** (toll-free) or **304-625-2050.**

The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY:MAIL[M] PERSONAL SERVICE[P] ELECTRONIC SERVICE[E]

TO: [ ] Noncitizen | [ ] Noncitizen c/o Custodial Officer |
[E] Noncitizen ATT/REP | [E] DHS

DATE: 11/26/2025 BY: COURT STAFF K. ARROYO

Attachments:[ ] EOIR-33 [ ] Appeal Packet [ ] Legal Services List [ ] Other NH

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ਨੋਟਿਸ ਨੂੰ ਔਨਲਾਈਨ ਪੜ੍ਹਨ ਲਈ ਇਸ ਪੰਨੇ 'ਤੇ ਕੋਡ ਨੂੰ ਸਕੈਨ ਕਰਨ ਲਈ ਸਮਾਰਟਫ਼ੋਨ ਦੇ ਕੈਮਰੇ ਦੀ ਵਰਤੋਂ ਕਰੋ।

অনলাইনে নোটিশ পড়ার জন্য এই পৃষ্ঠার কোডটি স্ক্যান করতে স্মার্টফোনের ক্যামেরা ব্যবহার করুন

सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्यान गर्न स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entèlijan pou eskane kòd ki nan paj sa a pou li avi a sou entènèt.

استخدم كاميرا الهاتف الذكي لمسح الرمز الموجود في هذه الصفحة لقراءة الإشعار على الإنترنت

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