

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

HECTOR GUTIERREZ ORTIZ,



Petitioner,

v.

Case No. 3:25-cv-01386-MMH-MCR

KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; PAMELA JO BONDI, in her official capacity as Attorney General of the United States; GARRET J. RIPA, in his official capacity as Field Director of the ICE Miami Field Office; WARDEN, Florida Baker Correctional Institute.¹

Respondents.

_____ /

RESPONSE TO HABEAS PETITION

Federal Respondents, Kristi Noem, in her official capacity as Secretary of the United States Department of Homeland Security (“DHS”), Pamela Jo Bondi, in her official capacity as Attorney General of the United States, Garret J. Ripa, in his official capacity as Field Director of the United States Immigration and Customs Enforcement (“ICE”) Miami Field Office, respond to Petitioner Hector Gutierrez Ortiz’s Petition

¹ The North Florida Detention Center (“NFDC”) is operated out of the now closed Baker Correctional Institute in Sanderson, Florida. The facility now has a new name although it is the same place. Ronnie Woodall was the Warden at the Baker Correctional Institute when it was operated by the State of Florida as a men’s prison, *see* www.fdle.state.fl.us, but at the time of this filing, there is not a named person as the facility administrator of the NFDC.

for Writ of Habeas Corpus. Doc. 1. The Court lacks jurisdiction here. Apart from that, Ortiz's detention is lawful. Thus, the Court should deny the writ and dismiss this action. In support, Respondents provide as follows:

BACKGROUND

Ortiz is a noncitizen who entered the United States without inspection, admission, or parole. See **Exhibit A** (Notice to Appear dated October 27, 2025). According to Ortiz, he is a native and citizen of Mexico who "entered the United States in 2013 without inspection or admission, after he opted for voluntary return in 2012." Doc. 1 at ¶ 20. On October 25, 2025, Ortiz was taken into custody at Gadsen County Jail after he was pulled over for speeding and a systems check showed a bench warrant. *Id.* at ¶ 21. Ortiz was placed into DHS custody on October 27, 2025. *Id.* On the same date, DHS served Ortiz with a Form I-862, Notice to Appear ("NTA"), setting Ortiz's initial appearance in Immigration Court for November 14, 2025, see **Exhibit A** at 2, a date which is now passed. The NTA alleges that Ortiz is an alien present in the United States without being admitted or paroled, who arrived in the United States at a time or place other than as designated by the Attorney General. *Id.* Ortiz was scheduled for an internet-based hearing before the Orlando Immigration Court on December 5, 2025, see **Exhibit B** (Orlando Notice of Internet-Based Hearing ("NOH")), and is scheduled for an internet-based hearing before the Lumpkin Immigration Court² on January 15, 2026. See **Exhibit C** (Lumpkin NOH).

² As of the time of this filing, Ortiz has been transferred and is now detained at the Folkston ICE Processing Center in Lumpkin, Georgia.

On November 13, 2025, Ortiz filed a Petition for Writ of Habeas Corpus, alleging that his custody violates the Due Process Clause of the Fifth Amendment; the Immigration and Nationality Act (“INA”), specifically, 8 U.S.C. § 1226(a); and Bond Regulations under 8 C.F.R. §§ 236.1, 1236.1, and 1003.19. See Doc. 1.

MEMORANDUM OF LAW

I. 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. § 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).

II. ARGUMENT

As explained, the Court lacks jurisdiction. Even if it disagrees, however, Petitioner’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 Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). Petitioner is free to contend his detention under § 1225 is unlawful or argue he should instead be detained under § 1226. But § 1225(b)(2)—not § 1226—is the certified basis on which ICE is detaining Petitioner.

B. Jurisdiction

This Court lacks jurisdiction over Ortiz'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's jurisdiction to consider Ortiz'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) (“Because [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. Thus, § 1252(g) strips the Court’s jurisdiction over habeas petitions challenging detention pending removal proceedings.

Here, Ortiz is being detained pending the commencement of removal proceedings. Ortiz’s detention is a decision or action related to the decision and actions by the Secretary to begin and pursue Ortiz’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 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 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 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 proceedings (removal proceedings, albeit not expedited 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 Ortiz (under either § 1225 or § 1226) arise from the commencement 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). Thus, the only relief a habeas petitioner may receive is release. *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020). In addition to seeking release, Ortiz decided to pursue habeas seeking declarations and orders related to his release from confinement. Doc. 1 at 24-25. Put different, this case is only about whether ICE can detain Ortiz pending 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) (“The 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) (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, Ortiz challenges ICE’s detention determination. This was an action arising from ICE’s choice to carry out 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

DHS makes initial decisions about custody and bond—which an IJ may review. 8 C.F.R. § 1003.19(a). But to get a bond hearing, the alien (or his lawyer) must make an application to the IJ for bond redetermination. *Id.* § 1003.19(b)-(c). The IJ’s bond redetermination is “separate and apart from” the removal proceedings. *Id.*

§ 1003.19(d). If the alien disagrees with the IJ's decision, he may appeal to the Board of Immigration Appeals ("BIA"). *Id.* § 1003.1(b)(7).

Here, Ortiz has yet to exhaust his administrative remedies. At the time of this writing, there is no evidence that Ortiz or his attorney has filed a motion for bond. However, Ortiz could file a motion and, if denied, pursue arguments before the BIA. As such, administrative remedies are still potentially available to Ortiz.

To the extent that Ortiz implies any futility in pursuing a bond hearing and BIA appeal, he is 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 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

Ortiz alleges ICE's decision to detain him under § 1225 rather than § 1226 was inappropriate, deprived his due process, and withheld a bond hearing. Specifically, Ortiz argues that the government has erroneously classified him as an "arriving alien" who is "seeking admission" to the United States and thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Doc. 1 at ¶ 43. 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 Ortiz under § 1225(b)(2). The parties do not dispute he entered the United States illegally and without any authorization. Ortiz’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).

Sections 1225(a)(1) and (b)(2) are unambiguous. There are no geographic qualifiers; nor are any time limitations imposed. 8 U.S.C. § 1225(b)(2). Notably, Congress included such time limitations in other parts of the same statute. For instance, 8 U.S.C. § 1225(b)(1)(A)(iii)(II)—enacted contemporaneously with § 1225(b)(2)—applies a two-year continuous physical presence requirement. When

Congress includes language in one part of a statute but omits it in another, it does so intentionally. *E.g.*, *Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1168 (11th Cir. 2003). Under these principles, the Court cannot read an additional “place of detention” or “period of residence” requirement into § 1225(b)(2) when it simply isn’t there. Short of legislating, the Court cannot impose limitations on § 1225(b)(2) that Congress did not include. *See Germain v. U.S. Att’y Gen.*, 9 F.4th 1319, 1325 (11th Cir. 2021).

As discussed, an alien’s place of detention or period of residence is irrelevant under the plain language. What is relevant, however, is an alien’s manner of entry. 8 U.S.C. § 1225(a)-(b). Congress members said as much when amending the INA. *See Sturgeon v. Frost*, 587 U.S. 28, 54 (2019) (“The legislative history (for those who consider it) confirms, with unusual clarity, all we have said so far.”). The statutory scheme that § 1225 and § 1226 replaced was structured so aliens who entered the United States undetected retained certain benefits—such as the availability of bond—where those who presented themselves at the border did not:

This subsection is intended to replace certain aspects of the current “entry doctrine,” 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 port of entry. Hence, the pivotal factor in determining an alien’s status will be whether or not the alien has been lawfully admitted.

H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Recognizing that such a scheme incentivized evasion over presenting oneself at a port of entry, Congress set out to restructure the law to distinguish between deportability—applicable to admitted aliens—and inadmissibility—applicable to those present without admission. *Id.* at

226. Thus, aliens who enter surreptitiously “will not be considered to have been admitted.” *Id.* Ortiz’s reading seeks to retroactively nullify this legislative fix and once again restore incentives to circumvent rather than comply with the INA.

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.

Ortiz contends his detention under § 1225 is improper and his detention should be under § 1226. *See Doc. 1 at ¶ 51*. But Ortiz did not 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 Ortiz demonstrate he is an applicant for admission under § 1225(b)(2).

Ortiz illegally entered the United States in 2013. (Doc. 1 at ¶ 20). In his Petition, Ortiz admittedly has no permission or status to remain in this country. *See*

id. at ¶ 56. Thus, it is undisputed Ortiz has not been admitted to the United States.

Due to Ortiz's unlawful immigration status, ICE pursues removal proceedings. Ortiz has not stipulated that he is removable; nor has he indicated he will not contest removal. At any point, Ortiz can seek release from detention to depart the United States voluntarily. 8 U.S.C. § 1229c(a). However, there is no indication Ortiz has any intention of doing so.

Ortiz admittedly has no status and was never admitted to the United States. Put different, Ortiz must be an applicant for admission if he wants to stay here. *Vargas Lopez*, 2025 WL 2780351, at *9 (Petitioner "wishes to stay in this country. This 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 ("If 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 Ortiz 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) (“[I]t 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)). Ortiz 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 as narrow as

Ortiz argues, then there would be no need to pass Laken Riley. 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) (“The 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 Ortiz under § 1225(b)(2).

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

CONCLUSION

For those reasons, the Court must deny the Petition and dismiss this action.

Date: December 5, 2025

Respectfully submitted,

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Notice to EOIR: Alien Address

GOVERNMENT EXPENSE. PLEASE EXPEDITE.

Date: 10/29/2025

To: ORLANDO Immigration Court
500 N. Orange Avenue STE 1100
Orlando, FL 32801

From: U.S. Department of Homeland Security
Immigration and Customs Enforcement
Enforcement and Removal Operations
13077 Veveras Drive, Jacksonville, FL 32258

Respondent: GUTIERREZ ORTIZ, Hector

Alien File No: [REDACTED]

This is to notify you that this respondent is:

Currently incarcerated by Federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by ICE (Form I-247 shown below. He/she is incarcerated at:

His/her anticipated release date is: _____

Detained by ICE at: Baker Correctional Institute
20706 U.S. Highway 90 West
Sanderson, Florida 32087-2359

Detained by ICE and transferred this date to a new location: _____

DHS motion for change of venue attached. Yes No

Released from ICE custody on the following condition(s):
 Order of Supervision or Own Recognizance (Form I-220A)
 Bond in the amount of \$ _____ Surety Cash
 Removed, Deported, or Excluded
 Other: _____

Upon release from ICE custody, the respondent reported his/her address and telephone number will be:

I hereby certify that the respondent was provided an EOIR-33 and notified that they must inform the Immigration Court of any further change of address.

FOR L.M.
ICE Official: L. Maher, Deportation Officer