

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

MIGUEL HERNANDEZ,

PETITIONER,

v.

DENNIS UDZINSKI, IN HIS OFFICIAL
CAPACITY, LADEON FRANCIS, IN
HIS OFFICIAL CAPACITY, TODD
LYONS, IN HIS OFFICIAL CAPACITY,
KRISTI NOEM, IN HER OFFICIAL
CAPACITY, AND PAMELA BONDI, IN
HER OFFICIAL CAPACITY,

RESPONDENTS.

Civil Action No.

2:25-CV-00373-RWS

**GOVERNMENT'S RESPONSE IN OPPOSITION TO PETITIONER'S
MOTION FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY
INJUNCTION**

INTRODUCTION

The issue central to this dispute is not whether Petitioner Miguel Hernandez is lawfully detained. Indeed, Petitioner does not contest that he is a United States citizen or that he entered the country lawfully. Rather, the dispute is whether his detention is lawful under 8 U.S.C. § 1225(b)(2)(A) or § 1226. Under the latter, Petitioner would be entitled to release on bond. *See* § 1226(a)(2).

The Government's principal response is that, because Petitioner has never been formally admitted into the country, his detention is legal under a plain

reading of § 1225(b)(2)(A). Petitioner, in turn, asserts that, because he was detained within the country as opposed to a point of entry, § 1226 applies to the exclusion of § 1225(b)(2)(A). He argues that the text of § 1226, canons of statutory interpretation, the legislative history of these sections, and the Government's prior practice of permitting similarly situated aliens (*i.e.*, those that have already entered the country) to be released on bond, all dictate that his detention is appropriate only under § 1226.

But Petitioner's argument begs one fundamental question. Is an alien who has no legal right to remain in this country, and who has successfully evaded the authorities for years, entitled to greater procedural protections than one who lawfully presents at the border and is detained without bond? For the many reasons discussed below – including Congress' intent to make *admission*, not entry, the pivotal factor in determining an alien's status – the answer is no.

FACTUAL AND LEGAL BACKGROUND

1. Facts

Petitioner is not a citizen of the United States. *See* Verified Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241, [Dkt. 1-Petition, at ¶ 22]. He asserts he entered the United States in the early 1990s. *Id.* He entered without inspection and has resided in the United States since entry. *Id.*

On November 17, 2025, Petitioner was taken into the custody of U.S. Immigration and Customs Enforcement (“ICE”), following his arrest by Gainesville, Georgia authorities,¹ upon their discovery of an ICE immigration detainer. [Dkt. 1, at ¶ 3; Dkt. 7, Respondents’ Status Report, Mockabee Decl. at ¶ 4]. ICE asserts he was detained pursuant to 8 U.S.C. § 1225(b)(2)(A). Petitioner was temporarily held at an ICE facility in Atlanta, until later that day when he was transferred to the Stewart Detention Center in Lumpkin, Georgia, where he remains. Mockabee Decl., at ¶ ¶ 4-5.²

Hernandez, asks for, but has not yet been given a bond hearing by an immigration judge. [Dkt. 1, at ¶ 5]. These facts are not in dispute.

¹ Gainesville, Georgia authorities arrested Petitioner on November 15, 2025, after a car collision. [Dkt. 1, at ¶ 22]. Hernandez’s son paid his bond to local authorities for his release; but they refused to release him due to his ICE hold. [Dkt. 1, at ¶ 3]

² On November 17, 2025, Petitioner was transferred outside of the Northern District of Georgia prior to service on Respondents of the Court’s order issued the same day. *See* Mockabee Decl., at ¶ 5. Though Petitioner has sought to enjoin Respondents from transferring Petitioner outside of the jurisdiction of the Court, the Court retains jurisdiction over his claims notwithstanding the transfer. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004). Thus, Petitioner cannot claim irreparable harm from the transfer alone, and this is a sufficient basis for denying Petitioner’s request. Additionally, the request is likely barred by several jurisdiction-stripping statutes for claims challenging ICE’s discretionary decision on where to detain an alien. *See* 8 U.S.C. §§ 1252(a)(2)(B)(ii), 1252(g), 1231(g). If necessary, Respondents request the opportunity to provide supplemental briefing on that point.

2. Relevant Sections of the INA

This case asks the Court to construe Sections 235 and 236 of the Immigration and Nationality Act (INA), which are codified at 8 U.S.C. § 1225 and § 1226, respectively. Each is addressed, in turn.

Section 1225 provides that any alien “present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an *applicant for admission*.” 8 U.S.C. § 1225(a)(1) (emphasis added).³ All applicants for admission “shall be inspected by immigration officers.” § 1225(a)(3).⁴ The purpose of that inspection is “to ensure that they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); 8 U.S.C. § 1101(a)(13)(A) (defining “admission” and “admitted” as meaning “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.”); *see also* § 1182(a) (defining classes of “inadmissible” aliens).

³ “Alien” “means any person not a citizen or national of the United States.” 8 U.S.C. § 1101(a)(3). Petitioner uses instead the more modern term “noncitizen,” which the Government understands to mean the same thing.

⁴ “Immigration officer” means any employee designated by the Attorney General, as that authority is delegated to DHS, to perform the functions of an immigration officer. 8 U.S.C. § 1101(a)(3). This includes border patrol agents, deportation officers, and a variety of law enforcement agents. 8 C.F.R. § 1.2.

Section 1225 divides applicants for admission into “one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(1) applies to “arriving” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; §§ 1225(b)(1)(A)(i), (iii).⁵ Section 1225(b)(1) can also apply to any alien designated by the Attorney General, in her “sole and unreviewable discretion[.]” provided that alien fails to show continuous presence in the United States for the last two years. § 1225(b)(1)(A)(iii)(II); Jennings, 583 U.S. at 287. Aliens falling under § 1225(b)(1) are generally subject to detention and expedited removal proceedings, unless they are granted asylum. *See* § 1225(b)(1)(A)(i).

Save two exceptions not applicable here, § 1225(b)(2) applies to any “applicant for admission,” for which an examining immigration officer has determined that the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” In comparison to § 1225(b)(1), the Supreme Court described § 1225(b)(2) as the “broader . . . catchall provision.” *Jennings*, 583 U.S. at 287. Section 1225(b)(2) orders that aliens failing such examination “shall be detained” for removal proceedings under § 1229a. § 1225(b)(2)(A).⁶

⁵ In relevant part, “arriving” means “an applicant for admission coming or attempting to come into the United States at a port-of-entry[.]” 8 C.F.R. § 1.2.

⁶ Under either § 1225(b)(1) or 1225(b)(2)(A), an alien may be granted parole “for urgent humanitarian reasons or significant public benefit[.]” 8 U.S.C. §

The detention authority under § 1225(b)(2)(A) and the interplay between § 1225(b)(2)(A) and § 1226 were the subject of the Board of Immigration Appeals' ("Board") September 5, 2025, precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).⁷ In *Hurtado*, a Venezuelan national appealed an immigration judge's decision that the judge lacked jurisdiction to hear his bond request. *Id.* at 217. The central question was whether Hurtado's length of stay in the country (3 years) meant he should have been granted a bond hearing under § 1226. *Id.* at 220. The Board affirmed the decision of the immigration judge, concluding that § 1225(b)(2)(A) governed the detention. *Id.*

As Petitioner correctly points out, *Hurtado* represents a shift in how the Government previously enforced § 1225(b)(2)(A) and § 1226 as to aliens unlawfully residing in the country. See [Dkt. 1, at ¶ 63]. That is, despite still acknowledging their status as "applicants for admission," the Government

1182(d)(5)(A); *Jennings*, 583 U.S. at 288. Parole, however, does not mean the alien has been "admitted." See § 1101(a)(13)(B).

⁷ The Board of Immigration Appeals is an appellate body formed and delegated power by the Attorney General. See generally 8 C.F.R. § 1003.1. It exercises appellate jurisdiction over many decisions of immigration judges. See § 1003.1(b). It is charged with resolving legal questions before it in a manner "that is timely, impartial, and consistent with the [INA] and regulations." § 1003.1(d). Further, through "precedent decisions" it provides "clear and uniform guidance to DHS, the immigration judges, and the general public on the proper interpretation and administration of the [INA] and its implementing regulations." *Id.*; see also § 1003.1(g)(1) (providing that precedent decisions are "binding on all officers and employees of DHS . . .")

previously determined they were eligible for release on bond. See [Dkt. 1, at ¶ 50].

3. Standard for Granting Injunctive Relief

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). The remedy “is the exception rather than the rule.” *United States v. Lambert*, 695 F.2d 536, 539 (11th Cir. 1983). And it should only be granted where the movant shows: “(1) it has a substantial likelihood of success on the merits, (2) the movant will suffer irreparable injury unless the injunction is issued, (3) the threatened injury to the movant outweighs the possible injury that the injunction may cause the opposing party, and (4) if issued, the injunction would not disserve the public interest.” *Horton v. City of Augustine, Fla.*, 272 F.3d 1318, 1326 (11th Cir. 2001). The most important of these factors is the first, and if a movant is “unable to establish a likelihood of success on the merits, a court need not consider the remaining conditions prerequisite to injunctive relief.” *Johnson & Johnson Vision Care, Inc. v. 1-800 Contacts, Inc.*, 299 F.3d 1242, 1247 (11th Cir. 2002). Further, “where the government is the party opposing the preliminary injunction, its interest and harm merge with the public interest.” *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020); *Nken v. Holder*, 556 U.S. 418, 435 (2009).

ARGUMENT

1. Petitioner is unlikely to succeed on the merits because, under a plain reading of § 1225(b)(2), he is lawfully detained without bond.

Petitioner's detention is lawful under a plain reading of 8 U.S.C. § 1225(b)(2)(A). Thus, he cannot show a likelihood of success on the merits as to his habeas, constitutional, and APA claims.

A. Notwithstanding his length of stay, Petitioner has never been lawfully admitted into the United States.

Section 1225(b)(2)(A) commands that an alien "shall be detained" for removal proceedings if the alien is "an applicant for admission" and an immigration officer has determined that he is not "clearly and beyond a doubt entitled to be admitted." § 1225(b)(2)(A). Read plainly, § 1225(b)(2)(A) governs Petitioner's detention. *See Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) ("As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute.").

Petitioner concedes he was never lawfully admitted to the United States. [Dkt. 1, at ¶ 22].; *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2021) ("[A]n alien who tries to enter the country illegally is treated as an 'applicant for admission[.]'"). Further, Petitioner does not dispute that he failed to "clearly and beyond a doubt" demonstrate his entitlement to be admitted. [*See id.*] Thus, because he was never admitted, § 1225(b)(2)(A) governs his detention.

B. Notwithstanding his length of stay, Petitioner is still deemed to be “seeking admission” to the United States.

Petitioner disputes this straightforward conclusion by pointing to the phrases “arriving alien” in § 1225(b)(1) and “applicant for admission” and “seeking admission” in § 1225(b)(2)(A). He argues § 1225(b)(2)(A) cannot apply to him because he has passed the border, resides in the country, and is therefore not presently “seeking admission” to the United States. *See* [Dkt. 1, at ¶¶ 89-101; Dkt. 2, at 6 (“Although Petitioner was apprehended within the interior of the United States, many years after the initial entry, immigration authorities have classified Petitioner as ineligible for release on bond as an “arriving alien” or “applicant for admission” solely because of Petitioner’s alleged entry without inspection almost two decades ago. This classification is inconsistent with the plain language of the INA”)]. In effect, Petitioner argues that § 1225(b)(2)(A)’s detention authority is limited geographically. *See id.* This argument falls short in two respects.

First, nothing in the INA or its implementing regulations defines “seeking admission” to limit § 1225(b)(2)(A)’s reach to apprehensions at the border. Indeed, “seeking admission” is not defined at all.

Moreover, Petitioner attempts to render “seeking admission” in § 1225(b)(2)(A) synonymous with “arriving,” akin to how the term *arriving* alien is utilized in § 1225(b)(1), as he argues that is the stance Respondents have taken in

other cases. [Dkt. 1, at ¶¶ 4-5] (“While § 1225 mandates detention without bond for noncitizens apprehended at the border as “seeking admission,” it does not apply to those like the Petitioner, who were detained within the United States long after arrival here”).

Second, Petitioner’s interpretation of § 1225(b)(2)(A) would problematically curtail the Government’s detention authority depending on how skilled or fortuitous an alien is at evading the authorities. That is, if an alien is successful in evading the authorities at the border, then the Government can no longer avail itself of mandatory detention under § 1225(b)(2)(A). It must instead commence removal proceedings and seek detention under § 1226 (with eligibility for release on bond). See [Dkt. 1, at ¶¶ 4-5]. But, as the Board pointed out in *Hurtado*, that interpretation creates a legal conundrum: “If [an 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?” *Matter of Hurtado*, 29 I. & N. Dec. at 221. The answer is not clear, particularly because the alien’s status as an “applicant for admission” does not change simply because they have passed the border undetected. Cf. § 1225(a)(3); *Jennings* 583 U.S. at 287. They also remain “inadmissible” under the provisions of the INA. See § 1182(a)(6)(A).

Regardless of the answer to the conundrum, Congress certainly did not enact the current version of § 1225(b)(2)(A) to afford aliens who have evaded the

authorities at the border *more* rights than those who lawfully present and are detained at ports-of-entry. To the contrary, this was one of the inequities it sought to address when it passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. As the Board in *Hurtado* explained:

In 1996, Congress enacted IIRIRA, which, among other things, substituted the term "admission" for "entry," and replaced deportation and exclusion proceedings with removal proceedings. Congress acted, in part, to remedy the unintended and undesirable consequence of having created a statutory scheme where aliens who entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings, including the right to request release on bond, while aliens who had actually presented themselves to authorities for inspection were restrained by more summary exclusion proceedings, and were subject to mandatory custody.

Matter of Hurtado, 29 I. & N. Dec. at 223 (internal citations and quotation marks omitted) (citing *Martinez v. Att’y Gen.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012)); *see also Chavez v. Noem*, No. 3:25-cv-02325-CAB-SBC, 2025 U.S. Dist. LEXIS 192940, at *12 (S.D. Cal. Sep. 24, 2025) (“Prior to IIRIRA, an anomaly existed whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully.”) (internal quotation marks omitted) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)). The Board also noted that the legislative history expressly reflected Congress’ intent 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.” *Matter of Hurtado*, 29 I. & N. Dec. at 223–24 (citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996)). Thus, after IIRIRA, the “pivotal factor in determining an alien’s status [is] whether or not the alien has been lawfully admitted.” *Id.*

Petitioner cannot minimize the import of this “pivotal factor” merely by asserting he is not presently “seeking admission.” See [Dkt. 1, at ¶ 92]. To do so would be to conclude that entry, rather than “admission,” is once again the linchpin of an immigrant’s status. See *Matter of Hurtado*, 29 I. & N. Dec. at 223–24. But this was precisely the paradigm shift Congress intended to enact with IIRIRA. Accordingly, the better interpretation is not to conclude that “seeking admission” is effectively the same as “arriving” but that “seeking admission” is co-extensive with “applicant for admission.” Even if he is not actively seeking admission to the United States at a port-of-entry, Petitioner is still “deemed to be ‘seeking admission’ under the immigration laws.” *Matter of Lemus-Losa*, 25 I. & N. Dec. at 743. This interpretation is consistent with one of Congress’ purposes in passing IIRIRA: to rid the INA of inequities previously created when an alien successfully evaded the authorities at the border.

2. Nothing in § 1226, IIRIRA’s legislative history, or DHS’s prior practice supports the assertion that his detention is lawful only under § 1226.

In response, Petitioner argues that, by its plain text, he is subject to detention under § 1226, not § 1225(b)(2)(A). Further, he warns that interpreting § 1225(b)(2)(A) as the Government does would render portions of § 1226 superfluous, contravene other canons of statutory interpretation, and is inconsistent with legislative history. [Dkt. 1, at ¶¶ 50, 87, 103, 106, 110]. Finally, Petitioner points out that the Government’s interpretation of § 1225(b)(2)(A) contradicts decades of prior practice. *Id.* at ¶ 50. Each is addressed in turn.

A. Sections 1225(b)(2)(A) and 1226 can harmoniously co-exist.

Initially, Petitioner fails to explain why both statutes must necessarily be mutually exclusive. *Cf. Matter of Hurtado*, 29 I. & N. Dec. at 222 (“nothing in the statutory text of section 236(c), including the text of the amendments made by the Laken Riley Act, purports to alter or undermine the provisions of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A)[.]”). Section 1226, for example, does not contain an exclusionary clause, such as § 1225(b)(2)(B)(ii) (providing that § 1225(b)(2)(A) does not apply to an alien subject to § 1225(b)(1)). Rather, the statutes can co-exist harmoniously. As the Supreme Court explained in *Jennings*, § 1226(a) provides the “default rule” by which the Government is “permitt[ed]— but not requir[ed] . . . to issue warrants for [an alien’s] arrest and detention

pending removal proceedings.” *Jennings*, 583 U.S. at 303. As the “default rule,” § 1226 can apply where the more specific provisions § 1225(b)(1) and § 1225(b)(2) do not. For example, § 1226 is applicable to circumstances where the Government seeks to detain an alien that has already obtained lawful admission into the United States, but that admission was later disqualified under a ground of removability under § 1227. *See* §§ 1226(c)(1)(B), (C), and (D) (discussing classes of “deportable” aliens).

Further, reading § 1225(b) as requiring noncitizens who have not been formally inspected and admitted to be detained, does not—as Petitioner argues—render §§ 1226(a) and (c) superfluous. *See* [Dkt. 1, at ¶ 106]. Petitioner overlooks or misconstrues provisions of the INA that require an alien, previously admitted, to again show admissibility. Take the example of a visaholder (who was lawfully admitted with a visa) seeking to become a legal permanent resident. That visaholder must, among other requirements, again demonstrate that they are “admissible to the United States for permanent residence.” 8 U.S.C. § 1255(a). Moreover, many inadmissibility grounds expressly contemplate a prior lawful admission or, at a minimum, the prior granting of an immigration benefit. *See, e.g.*, § 1182(a)(1)(ii) (deeming inadmissible applicants for residency who fail to present adequate vaccine documentation); § 1182(a)(2)(D) (same for acts of prostitution); § 1182(a)(4)(A) (same for public charges).

Accordingly, the Court should conclude § 1225(b) applies when an alien has not been admitted (and is thus an “applicant for admission”) and § 1226 applies where there has been a prior, lawful admission.⁸ This interpretation permits the two to co-exist and gives effect to every portion of the statutes.

B. Canons of statutory interpretation do not support Petitioner’s argument.

Further, the Government’s interpretation is consistent with another canon of statutory construction: the Court must interpret a statute consistent with Congress’ intent. *See Black Warrior Riverkeeper, Inc. v. Cherokee Mining, LLC*, 548 F.3d 986, 990 (11th Cir. 2008) (“[W]e must keep in mind that as in all cases of statutory construction, our task is to interpret the words of the statute in light of the purposes Congress sought to serve.”) (internal quotation marks omitted). As noted above and discussed in *Hurtado*, the changes to 8 U.S.C. § 1225 under IIRIRA were intended to *strengthen* the Government’s ability to remove aliens residing in the country, despite never having been lawfully admitted. *See generally Matter of Hurtado*, 29 I. & N. Dec. at 222–24. Thus, while aliens who

⁸ The Government recognizes that the Supreme Court summarized § 1225(b) and § 1226 as applying to aliens “seeking admission into the country” and those “already in the country[.]” respectively. *Jennings*, 583 U.S. at 289. But this dictum was not central to its holding. It also conflates § 1225(b)(1) with § 1225(b)(2)(A) and fails to recognize the “pivotal factor” in determining an alien’s status is not “entry” but “admission.” *See Matter of Hurtado*, 29 I. & N. Dec. at 223–24 (citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996)).

entered without inspection were previously “deportable,” they would, post-IIRIRA, “not be considered to have been admitted” at all. *Id.* at 224 (citing H.R. Rep. No. 104-469, pt. 1, at 226 (1996)). Understanding § 1225(b)(2)(A) to permit mandatory detention for aliens that were never lawfully admitted—as is the case here—gives effect to Congress’ intent in passing IIRIRA. Petitioner’s interpretation (that discretionary detention under § 1226 excludes application of § 1225(b)(2)(A)), however, only frustrates that intent.

Additionally, Petitioner argues that the Government’s interpretation of § 1225(b)(2)(A) may lead to superfluous or surplus language in § 1226. See [Dkt. 1, at ¶¶ 87, 103, 106]. But the canon against surplusage is not as expansive as Petitioner suggests. It is typically employed “only where a competing interpretation gives effect to every clause and word of a statute.” *Marx v. Gen Revenue Corp.*, 568 U.S. 371, 385 (2013) (internal quotation marks omitted). The canon is *not* employed where no proffered interpretation “gives effect to every word.” *Id.* Here, the canon has no applicability where the Government’s interpretation *is* giving effect to every portion of the statutes or, at worst, both parties appear to threaten surplusage with their competing interpretations.

In any event, Petitioner’s threatened surplusage does not nullify the Government’s interpretation of the plain text of § 1225(b)(2)(A). Surplusage is not a cardinal sin; it can be “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 v. Barr*, 590 U.S. 222, 239 (2020). Indeed, “[s]ometimes the better overall reading of the statute contains some redundancy.” *Id.* (internal quotation marks omitted).

Here, Petitioner suggests that the newly minted Laken Riley Act, 8 U.S.C. § 1226(c)(1)(E), Pub. L. No. 119-1, 139 Stat. 3 (2025), dictates that § 1225(b)(2)(A) be narrowly interpreted. *See* [Dkt. 1, at ¶ 106]. But, even if that were true, Petitioner fails to adequately explain why a new law, codified in one section of the INA, should defeat the plain text of the decades-old IIRIRA, codified in another section of the INA. *See Barton*, 590 U.S. at 239 (“Redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text[.]”). Rather, if the Court finds redundancy between the two provisions (and the Government maintains there is none), then the better approach is to conclude that Congress wanted to be “doubly sure” certain criminal aliens present in the country without lawful (or revoked) admission were subject to mandatory detention. *See id.*

3. Petitioner has not shown irreparable harm or violations of due process.

Assuming the Court finds that Petitioner has failed to show a likelihood of success on the merits, it need not analyze the other injunction factors. *See Johnson & Johnson Vision Care, Inc.*, 299 F.3d at 1247. Nevertheless, The Government does not dispute that Petitioner's assertions of irreparable harm and violations of due process are necessarily intertwined with the legality of his detention. *See [Dkt. 2, at 7; Cf. Demore v. Hyung Joon Kim, 538 U.S. 510, 523 (2003) ("[T]his Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process."); Vazquez v. Bostock, 779 F. Supp. 3d. 1239, 1262 (W.D. Wa. 2025) ("Rodriguez suffers potentially irreparable harm every day that he remains in custody without a hearing, which could ultimately result in his release from detention.")*.

Conclusion

In detaining Petitioner, the Government is acting consistently with the plain text of 8 U.S.C. § 1225(b)(2)(A), Congressional intent in enacting IIRIRA, and several canons of statutory construction. Petitioner's interpretation of § 1225(b)(2)(A) to the contrary leads to the inequitable result that an alien who has successfully evaded the authorities for years is afforded more rights than an alien who presents for admission at a port-of-entry but is detained. For these reasons and those stated above, Petitioner has failed to demonstrate he is likely to

succeed on the merits of his habeas, constitutional, and APA claims. His motion for temporary injunctive relief should thus be denied.

Dated: November 20, 2025.

Respectfully submitted,

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Certificate of Compliance

I hereby certify, pursuant to Local Rules 5.1 and 7.1D, that the foregoing document has been prepared using Book Antiqua, 13-point font.

Dated: November 20, 2025.

Respectfully submitted,

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