

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

JONNY FRANCISCO	)	
PALLES-FRANCO,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:25-cv-00154
	)	
WARDEN, FOLKSTON ICE	)	
PROCESSING CENTER, ET AL.,	)	
	)	
Respondents.	)	

**RESPONSE TO SHOW CAUSE ORDER**

**I. Introduction**

Petitioner Jonny Francisco Palles-Franco (“Petitioner” or “Palles-Franco”) filed a habeas corpus petition pursuant to 28 U.S.C. § 2241. Doc. 1. Palles-Franco’s § 2241 petition incorrectly alleges that he is detained because Immigration and Customs Enforcement (“ICE”) has deemed him an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

On December 2, 2025, the Court issued an Order directing Respondent<sup>1</sup> to show cause within five days why the Court should not grant the same relief to Petitioner that the Court granted to petitioners in the recently adjudicated *Villa* case.

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<sup>1</sup> The only proper respondent in this habeas corpus matter is the Warden of Folkston ICE Processing Center. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (“the proper respondent [in a habeas corpus petition] is the warden of the facility where the prisoner is being held”); *Grimes v. Geter*, No. 2:20-cv-42, 2020 WL 13917844, at \*1 (S.D. Ga. Apr. 24, 2020) (Cheesbro, J.) (“The only proper respondent in a § 2241 case such as this is the inmate’s immediate custodian—the warden of the facility where the inmate is confined.”).

*See Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025).

Palles-Franco is not entitled to the same relief as the Petitioners in the cases consolidated with *Villa* because Palles-Franco is detained under 8 U.S.C. § 1225(b)(1), the expedited removal statute. *See* Declaration of Daniel Czerniak (Exhibit 1), ¶ 18. Accordingly, the Court's decision in *Villa*, addressing the catchall provision of 8 U.S.C. § 1225(b)(2), is not applicable to Palles-Franco, who is mandatorily detained pending expedited removal pursuant to 8 U.S.C. § 1225(b)(1).

Should the Court desire a more exhaustive response memorandum or briefing on claims (or counts) not explicitly addressed herein, Respondent respectfully requests leave to file such a brief and will do so upon the Court's request.

## II. Statutory Framework

The INA contains two complementary provisions, 8 U.S.C. §§ 1225 and 1226, governing the detention of aliens prior to issuance of a removal order. Section 1225 applies to “applicants for admission,” who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally

subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of prosecution, or is “found not to have such a fear,” he is detained until removed. *Id.* § 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *see Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025) (“[A]liens 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.”) (citing *Jennings*, 583 U.S. at 300); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (internal citation omitted; quoting *Jennings*, 583 U.S. at 299)). Still, the Department

of Homeland Security (“DHS”) possesses sole discretionary 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.” *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

Section 1226, in turn, provides for arrest and detention “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). This section provides authority to detain aliens who do not fall under § 1225(b)(2) because they were previously admitted, but who are placed in removal proceedings under § 1229a for various reasons, including by violating their status, overstaying their visas, or being convicted of certain crimes. See 8 U.S.C. § 1227(a). Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release an alien detained under § 1226(a) if the alien demonstrates that he “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).

### **III. Factual Background**

Palles-Franco is a native and citizen of El Salvador. See Exh. 1, ¶ 4. On or about June 6, 2023, United States Border Patrol encountered Petitioner after he illegally entered the United States without inspection or admission at or near Hildago, Texas. See *id.*, ¶ 5. On that date, Petitioner was placed in expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1). See *id.*, ¶ 6. He made a claim for relief

from removal, and on June 10, 2023, he entered ICE custody and was detained at the Port Isabel Detention Center in Los Fresnos, Texas. *See id.*, ¶¶ 7-8.

On June 15, 2023, the United States Citizen and Immigration Services (“USCIS”) made a positive initial determination as to the claim for relief. *See id.*, ¶ 9. On June 28, 2023, Petitioner was paroled from ICE custody. *See id.*, ¶ 10. On October 27, 2023, ICE served Petitioner with a Notice to Appear (“NTA”) charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). *See id.*, ¶ 11.

On June 9, 2025, Petitioner appeared with counsel for his initial master calendar hearing at the Newark Immigration Court, Newark, New Jersey. *See id.*, ¶ 12. He requested a continuance, and the Immigration Judge (“IJ”) reset the case for a master calendar hearing on August 17, 2026. *See id.* On October 4, 2025, ICE revoked Petitioner’s parole and arrested Petitioner. *See id.*, ¶ 13. Petitioner was detained at the Elizabeth Detention Facility in Elizabeth, New Jersey. *See id.* On October 30, 2025, Petitioner appeared for a master calendar hearing and requested a continuance. *See id.*, ¶ 14. The IJ reset the case for a master calendar hearing on November 13, 2025. *See id.*

On November 4, 2025, Petitioner was transferred to Folkston D. Ray ICE Processing Center in Folkston, Georgia. *See id.*, ¶ 15. On November 15, 2025, Petitioner was transferred to Karnes County Immigration Processing Center in Karnes, Texas. *See id.*, ¶ 16. Petitioner is scheduled for a master calendar hearing on January 7, 2026, at the Pearsall Immigration Court in Pearsall, Texas. *See id.*, ¶ 17.

Petitioner is presently detained in ICE custody pursuant to 8 U.S.C. § 1225(b)(1). *See id.*, ¶ 18.

#### IV. Argument

##### A. Petitioner is detained under 8 U.S.C. § 1225(b)(1).

In *Villa* and the cases consolidated with it, this Court considered whether petitioners were subject to mandatory detention under § 1225(b)(2) or, as the petitioners in *Villa* argued, discretionary detention under § 1226(a). *See Villa*, 2025 WL 3095969, at \*4. The Court provided its detailed analysis regarding the statutory interpretation of § 1225(b)(2). *Villa*, 2025 WL 3095969. It did not, however, analyze the expedited removal provisions set forth in § 1225(b)(1), as such provisions were not at issue.

Here, however, Palles-Franco is detained for expedited removal under § 1225(b)(1). *See Exh. 1*, ¶ 18. He is not, and has never been, detained under § 1225(b)(2) – the provision addressed in *Villa*. Accordingly, Petitioner is not entitled to the same relief as the petitioners in the cases consolidated with *Villa*.

#### V. Conclusion

For the reasons stated above, this action is distinguishable from *Villa*, and the Court should not grant Petitioner the relief awarded in that case. Respondent reserves his defenses to the merits of the Petition, to include defenses related to the justiciability of Petitioner's claims, until such time as the Court directs a response.

Respectfully submitted, this 8th day of December, 2025.

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