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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTHERN GEORGIA
WAYCROSS DIVISION**

Juan Josue Bautista Diaz	)	
	)	Case No. 5:25-cv-166
Petitioner,	)	
	)	
v.	)	
	)	
WARDEN Folkston Main Detention Center, et. al	)	
	)	
Respondents.	)	
_____	)	

REPLY TO RESPONSE IN OPPOSITION

INTRODUCTION

Petitioner submits this Reply to Respondents' Abbreviated Response (ECF 9) to the Court's Order to Show Cause. Respondents were ordered to explain why Petitioner should not receive the *same relief* as the petitioners in *Villa v. Normand*, Case No. 5:25-cv-89. They have not done so. Both of their arguments, (1) § 1252(g) bars jurisdiction, and (2) Petitioner is an "applicant for admission" detained under § 1225(b)(2)(A), were squarely raised, fully briefed, and rejected in *Villa*. Because the facts of this case place Petitioner in the exact same legal posture as the *Villa* petitioners, *Villa* controls and the writ should issue.

ARGUMENT

I. Section 1252(g) Does Not Bar the Court's Jurisdiction—*Villa* Fully Controls

Respondents repeat the identical § 1252(g) jurisdictional argument that this Court rejected in *Villa*. There, Respondents argued—verbatim—that detention “falls within” the Attorney General’s decision to “commence proceedings” and is therefore unreviewable. The Court held the opposite. That holding should be applied here as well.

A. *Villa* squarely held that § 1252(g) does not apply to habeas challenges to the legal basis of detention

In the *Villa* R&R, the Magistrate Judge found that Petitioners “[did] not challenge any decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders. These Petitioners challenge the underlying legal bases of their detention.” *Villa v. Normand*, No. 5:25-cv-89, slip op. at 4–5 (S.D. Ga. Nov. 4, 2025) (Report & Recommendation).

The District Judge adopted this holding in full: “The Court concurs with the Magistrate Judge’s analysis and the other courts that have considered the issue. Section 1252(g) does not strip this Court of jurisdiction to adjudicate these Petitioners’ habeas claims.” *Villa v. Normand*, No. 5:25-cv-89, slip op. at 11–13 (S.D. Ga. Nov. 14, 2025) (Order Adopting R. & R.).

B. Petitioner’s petition raises the same claim *Villa* held as reviewable

Similar to the petitioner in *Villa*, here, the Petitioner challenges only the *statutory authority under which he is presently detained*—i.e., whether he is detained under § 1225(b)(2)(A) as DHS asserts, or under § 1226(a) as the statute requires. He does not challenge (1) the decision to commence proceedings; (2) the adjudication of his removal case; or (3) the execution of a removal order. This is exactly the kind of claim *Villa* held § 1252(g) does not bar. Respondents cite the same cases they cited in *Villa*, i.e. *Gupta v. McGahey*, 709 F.3d 1062 (11th Cir. 2013), and *Alvarez v. U.S. Immigration & Customs Enforcement*, 818 F.3d 1194 (11th Cir. 2016). This Court already explained why those cases are inapposite. See *Villa*, Doc. 84 at 11–13. Instead, he challenges the statutory authority for his present detention, which is a quintessential habeas inquiry. See *INS v.*

St. Cyr, 533 U.S. 289, 301 (2001) (“The writ has long been available to review the legality of Executive detention.”); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

C. The cases Respondents cite were distinguished in *Villa*

Respondents again rely on *Gupta v. McGahey*, 709 F.3d 1062 (11th Cir. 2013), and *Alvarez v. U.S. Immigration & Customs Enforcement*, 818 F.3d 1194 (11th Cir. 2016). *Villa* rejected both authorities as inapposite because those plaintiffs challenged the enforcement of removal rather than the legality of detention. See *Villa*, slip op. at 11–13 (S.D. Ga. Nov. 14, 2025). Respondents present nothing new. *Villa* controls. This Court has jurisdiction to review the Petitioner’s habeas claim.

II. *Villa* Resolves the Statutory Question: Petitioner Is Detained Under § 1226(a), Not § 1225(b)(2)(A)

Respondents’ second argument, that Petitioner is an “applicant for admission” subject to mandatory detention under § 1225(b)(2)(A). The same argument was analyzed and rejected in *Villa*. Respondents again recycle arguments the Court rejected, that any noncitizen present without admission is automatically and forever an “applicant for admission” subject to mandatory detention under § 1225(b)(2). This is the same DHS interpretation based on the July 2025 DHS shift and *Matter of Yajure-Hurtado*, applied across the country and universally rejected in *Villa*.

A. *Villa* held that “seeking admission” requires *current* action at or near an inspection process, not mere presence without admission

Villa held: “‘Seeking admission’ implies action—something currently occurring, and . . . would most logically takes place at the border upon inspection.” *Villa*, slip op. at 13–16 (R. & R.) (citing *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025)). The regulation confirms this reading: An “arriving alien” means “an applicant for admission coming or attempting to come into the United States.” 8 C.F.R. § 1.2.

Villa concluded that § 1225 applies only where an individual is: being inspected by an immigration officer; arriving at or attempting to come into the U.S.; or in the present-tense process of “seeking admission.” Here, the Petitioner’s facts match the facts in *Villa*. The Petitioner has been living inside the United States since 2019. He was encountered inside the United States (ECF 9-1 Dedmon Decl. ¶ 6). He was placed in § 1229a removal proceedings (ECF 9 at 5–6). He was arrested pursuant to a traffic stop and not at or near a port of entry. Further, he was not pursuant to a warrant and was not yet in removal proceedings. He had an affirmative asylum application pending. He was then placed in § 1229a removal proceedings after he was detained. He was not “seeking admission,” being inspected, or located at or near a port of entry when he was detained. Thus, § 1225(b)(2)(A) clearly does not apply.

There was no inspection, presentation for admission, or attempt to enter. He is therefore not “seeking admission,” and cannot be detained under § 1225(b)(2)(A).

B. *Villa* rejected DHS’s reliance on *Yajure-Hurtado*

Villa devoted an entire section to this issue and determined that it is unpersuasive. In *Villa*, the Magistrate found that the BIA’s decision in *Yajure Hurtado* distorts the plain meaning of the statute and conflicts with the implementing regulations. *Villa*, slip op. at 21–22 (R. & R.). The District Judge adopted this holding as well. *Villa*, slip op. at 21 (Nov. 14, 2025). Thus, Respondents cannot rely on *Yajure-Hurtado* here either.

C. *Villa* held that Respondents’ construction would nullify § 1226(a)

Villa explained that if Respondents’ reading of § 1225(b)(2)(A) were correct, **no one** would fall under § 1226(a). Respondents “were unable to identify any category of individuals who would be subject to § 1226(a)” under their construction. *Villa*, slip op. at 10 (Order Adopting R. & R.). The Court concluded that Respondents’ interpretation “would largely nullify § 1226(a).”

Villa, slip op. at 17 (R. & R.) (citing *Corley v. United States*, 556 U.S. 303, 314 (2009)). Therefore, it found that Respondents' interpretation could not apply.

D. Under *Villa*, Petitioner is entitled to release or a bond hearing under § 1226(a)

Villa held, "Petitioner is not subject to mandatory detention under § 1225(b)(2)... and is entitled to discretionary bond under § 1226(a)." *Villa*, slip op. at 22–23 (R. & R.) The District Judge affirmed and ordered that Petitioners shall be released or provided a bond hearing. *Villa*, slip op. at 23–24 (Order Adopting R. & R.) Petitioner's circumstances match *Villa* exactly: he is present in the U.S., in § 1229a proceedings, and DHS is improperly applying § 1225(b)(2)(A) to convert interior detention into mandatory detention.

III. Respondents Identify No Factual or Legal Distinction That Would Justify a Different Result Than *Villa*

Respondents **concede** that if the Court maintains the legal reasoning in *Villa*, the result here is the same. See Resp'ts' Opp. 2 (ECF No. 9). They offer no factual distinction. Petitioner was arrested inside the United States, not at a port of entry. Petitioner is charged as a removable noncitizen under 8 U.S.C. § 1182(a)(6)(A). Petitioner is in standard § 1229a proceedings. DHS asserts mandatory detention solely due to *Yajure-Hurtado* and the July 2025 DHS policy shift. *Villa* addressed all of these circumstances, and ordered release.

CONCLUSION

For the reasons above and those set forth in the Petition, Section 1252(g) does not strip jurisdiction under controlling *Villa* precedent. Section 1225(b)(2)(A) does not govern Petitioner's detention as a matter of statutory interpretation under *Villa*. Petitioner is detained under § 1226(a) and is entitled to immediate release or a bond hearing.

WHEREFORE, Petitioner respectfully requests that the Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Hold that Petitioner's detention is governed by § 1226(a);
3. Order immediate release, or alternatively;
4. Order a prompt bond hearing before an Immigration Judge.

Respectfully submitted,

Dated: December 9, 2025

Respectfully submitted,

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