UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-CV-25506-GAYLES

VICTOR RUBIO-ORTEGA

Petitioner,

v.

PAM BONDI[1], in her official capacity as the Attorney General of the United States, *et. al.*

Respondents.
_____/

RESPONDENTS' RETURN AND RESPONSE TO ORDER TO SHOW CAUSE AND MEMORANDUM OF LAW

Respondents, by and through the undersigned Assistant U.S. Attorney, hereby respond to the Court's Order to Show Cause [ECF No. 8]. For the reasons set forth below, the Petition for Writ of Habeas Corpus [ECF No. 1] ("Petition")[2] should be denied.

INTRODUCTION

In this Petition, Petitioner, Victor Rubio Ortego ("Petitioner") argues that he is unlawfully

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." *See* 28 U.S.C. § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Id.* at 439. As Petitioner is currently detained at Krome Service Processing Center ("Krome"), a detention facility in Miami, Florida, the immediate custodian in charge of Krome is Assistant Field Director ("AFOD") Charles Parra. Accordingly, the only proper Respondent in this case is AFOD Parra, in his official capacity.

[2] Respondents recognize that courts in this District have rejected similar arguments in granting habeas petitions. *See, e.g., Perez v. Parra*, Case No. 25cv24820 (S.D. Fla.). Nonetheless, Respondents maintain and preserve these arguments for the record in this case.

detained under 8 U.S.C. § 1225(b)(2) of the Immigration and Nationality Act ("INA") and is instead detained pursuant to 8 U.S.C. § 1226(a)(1). [ECF No. 1 ¶ 43]. Therefore, Petitioner argues that he is entitled to a bond hearing and denying him bond violates the APA, the INA and his rights to due process. *Id.* at ¶ 66. To the contrary, under a plain language reading of § 1225, Petitioner is an "applicant for admission," who is lawfully detained under 8 U.S.C. § 1225(a)(1), and therefore, he is subject to mandatory detention under § 1225(b)(2)(A) and ineligible for release under 8 U.S.C. § 1226(a). Pursuant to § 1225(a), "[a]n 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)(1). Petitioner entered the U.S. in or about October 1988, without inspection or admission. *Id.* at ¶ 16. Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.

PROCEDURAL HISTORY

Petitioner is a native and citizen of Mexico. [ECF No. 1, p.1]. Petitioner entered the U.S. in or about October 1988, without inspection or admission. *Id.* at ¶ 16; U.S. Department of Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), encountered Petitioner when he was incarcerated at the Monroe County Jail following an arrest for possession of a counterfeit driver's license. *See* **Exhibit A**, *Form I-213, Record of Deportable/Inadmissible Alien (Form I-213), dated November 29, 2019*. ERO issued a Notice to Appear (NTA) on November 29, 2019, charging Petitioner as inadmissible under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(a)(6)(A)(i)(I), as an alien present in the United States without having been admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and section

212(a)(7)(A)(i) of the INA, 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an alien who at the time of application for admission, was not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act. *See* **Exhibit B**, *NTA, dated November 29, 2019*. Petitioner's case was administratively closed by the Immigration Judge on January 7, 2020, because Petitioner was still incarcerated at the Monroe County Jail and his release date was unknown. *See* **Exhibit C**, *Immigration Judge's order, dated January 7, 2020*; *see also* **Exhibit B**.

On September 18, 2025, Petitioner was again encountered by U.S. Border Patrol agents aiding the Monroe County Sheriff's Office with execution of a search warrant for another subject. *See* **Exhibit D**, *Form I-213, Record of Deportable/Inadmissible Alien (Form I-213), dated September 18, 2025*. On September 20, 2025, Petitioner was taken into ICE custody. He is presently detained at the Krome North Service Processing Center (Krome). *See* **Exhibit E**, *Detention History*; **Exhibit F**, *Declaration of Deportation Officer Jocelyn L. Lopez* at ¶5.

A second NTA was issued on October 7, 2025, charging Petitioner with inadmissibility under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(a)(6)(A)(i)(I), as an alien present in the United States without having been admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and section 212(a)(7)(A)(i) of the INA, 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an alien who at the time of application for admission, was not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act. *See* **Exhibit G**, *NTA, dated October 7, 2025*.[3]

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[3] On December 5, 2025, DHS filed a Motion to Dismiss Petitioner's immigration proceedings based on the October 7, 2025, NTA having been improvidently issued.

On October 14, 2025, Petitioner filed a motion for custody redetermination with the Immigration Judge. *See* **Exhibit F,** ¶14. The Immigration Judge denied Petitioner's request for release on bond on October 23, 2025, because she found she did not have jurisdiction over Petitioner's custody status. *See* **Exhibit H**, *Immigration Judge bond order, dated October 23, 2025*. Petitioner waived appeal of this decision. *Id.*

On November 18, 2025, Petitioner filed a Motion to Terminate with the Immigration Judge, alleging the NTA in 2025 was defective, altered, and improperly served, therefore divesting the Immigration Judge of jurisdiction over the proceedings. [ECF No. 1-2]. The Department of Homeland Security (DHS) responded to these allegations on December 1, 2025. The Immigration Judge has not ruled on Petitioner's Motion to Terminate. *See* **Exhibit F**, ¶15.

On November 26, 2025, Petitioner filed a second motion for custody redetermination with the Immigration Judge. *See* **Exhibit F**, ¶16. The Immigration Judge again denied Petitioner's request for release on bond on December 4, 2025, because the Immigration Judge found she did not have jurisdiction over Petitioner's custody status. *See* **Exhibit I**, *Immigration Judge bond order, dated December 4, 2025*. Petitioner reserved appeal of this decision but has not filed an appeal with the Board of Immigration Appeals to date. *See* **Exhibit F**, ¶16. Petitioner is scheduled for a Master Calendar hearing at the Krome Immigration Court on December 22, 2025. *Id.* at 18.

ARGUMENT

I. Effect of the Class Action Certification in *Maldonado Bautista v. Santacruz*

As an initial matter, in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), the court granted class certification under Rule 23(b)(2). Prior to class certification, the court entered partial summary judgment for the petitioners in that case but denied the request to enter final judgment because there was a pending motion for class certification. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL

3289861 (C.D. Cal. Nov. 20, 2025). Accordingly, the court has not issued final class-wide relief. Rather, the court set a January 9, 2026, joint status report deadline and January 16, 2026, status conference. 2025 WL 3288403, at *10. The *Maldonado Bautista* court defined the certified class as follows:

> Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista, 2025 WL 3288403, at *9. Petitioner appears to be a member of the *Maldonado Bautista* class as he is a native and citizen of Mexico who entered the United States without inspection [ECF No. 1, ¶ ¶15-16]; he was not apprehended upon arrival; and he is not subject to detention under § 1226(c)(criminal aliens), § 1225(b)(1)(arriving alien), or § 1231(post final order of removal) at the time the Department of Homeland Security made their initial custody determination.

Because Petitioner is a member of the *Maldonado Bautista* class, the Court should dismiss or, in the alternative, stay this action. Certification of a 23(b)(2) class precludes individual suits for the same injunctive or declaratory relief. *See U.S. v. Sanchez-Gomez*, 584 U.S. 381, 387 (2018)(noting that "[t]he certification of a suit as a class action has important consequences for the unnamed members of the class, including being "bound by the judgment") (cleaned up); *Horns v. Whalen*, 922 F.2d 835 (4th Cir. 1991) (affirming district court's decision to decline jurisdiction in a habeas mandamus action where the issue at bar was pending in a class action); *McNeil v. Guthrie*, 945 F.2d 1163, 1165-66 (10th Cir. 1991) (finding that "[i]ndividual suits for injunctive and declaratory relief from alleged unconstitutional prison conditions cannot be brought where there is an existing class action. To permit them would allow interference with the ongoing class

action"); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) ("To allow individual suits would interfere with the orderly administration of the class action and risk inconsistent adjudications"); *Rahman v. Blinken*, 2024 WL 4332603, at *8 (D.D.C. Sept. 27, 2024) (dismissing mandamus and APA claims where the same claims were being litigated in a class action of which the plaintiff was a member).

Should the Court find that Petitioner is a member of the *Maldonado Bautista* class, but that dismissal is not warranted, the *Maldonado Bautista* court's decision does not have preclusive effect in this matter. As noted above, the *Maldonado Bautista* court did not enter a final judgment with respect to the class. Although the court stated it was extending "the same declaratory relief" to the class, a court cannot grant declaratory relief prior to the entry of a final judgment, *i.e.*, a declaratory judgment. *See Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975)("prior to final judgment there is no established declaratory remedy comparable to a preliminary injunction"). A pre-final judgment declaration is, by its nature, not a declaratory judgment "[b]ecause a preliminary declaration—unlike a final declaration—does not specifically bind anyone, it is more akin to an advisory opinion, which the Court is precluded from issuing by history and the implicit policies embodied in Article III." *Vazquez Perez v. Decker*, No. 18-CV-10683 (AJN), 2019 WL 4784950, at *10 (S.D.N.Y. Sept. 30, 2019).

Absent an entry of final judgment with respect to the class, or a certification of partial final judgment under Rule 54(b), there is no declaratory judgment in *Maldonado Bautista*. The partial summary judgment ruling does not operate as a "judgment" because it is not an appealable order and "does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities."

Fed. R. Civ. P. 54(a), (b). Thus, there is no class-wide judgment, let alone any final judgment that could have preclusive effect as to class members.

In short, the *Maldonado Bautista* court did not enter a class-wide judgment. As such, there is currently no declaratory relief, let alone relief with preclusive effect on *Maldonado Bautista* class members' claims concerning the proper interpretation of 8 U.S.C. § 1225(b)(2)(A)'s mandatory detention provision. Therefore, Petitioner does not have a claim for relief as a member of the class while there is no final judgment.

II. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of § 1225(b)(2), the Government is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) ("Our analysis begins and ends with the text.").

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) deems all aliens who either "arrive[] in the United States" or who are "present in the United States [and] who ha[ve] not been admitted" to be "applicant[s] for admission." 8 U.S.C. § 1225(a)(1). "Admission" under the Immigration and Nationality Act ("INA") means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an

applicant for admission, regardless of the duration of the alien's presence in the United States or the alien's distance from the border.

In turn, § 1225(b)(2) provides that "an alien who is an applicant for admission" "shall be detained" pending removal proceedings if the "alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). The statute's use of the term "shall" makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien's presence in the country or where in the country the alien is located. Therefore, the statute's plain text mandates that the Government detain all "applicants for admission" who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was "present in the United States," and there is no dispute that he has "not been admitted." 8 U.S.C. § 1225(a); see [ECF No. 1, ¶ 5. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner "be detained for a proceeding under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission under § 1225(b)(2) are seeking to be legally admitted into the United States.

As explained above, Petitioner is an "applicant for admission" under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an "applicant for admission" *is* necessarily "seeking admission." Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to depart from the United States voluntarily, is "seeking admission," i.e., seeking legal authority to remain in the United States.

1. The "seeking admission" clause does not negate or otherwise limit the statutorily defined term "applicant for admission".

Section 1225(b)(2) requires the detention of an "applicant for admission, if the examining 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) (emphasis added). The statutory text and context show that being an "applicant for admission" is a means of "seeking admission"—no additional affirmative step is necessary. In other words, every "applicant for admission" is inherently and necessarily "seeking admission," at least absent a choice to pursue voluntary withdrawal of the application for admission or voluntary departure.

For example, § 1225(a) provides that "[a]ll aliens … who are applicants for admission *or otherwise* seeking admission or readmission … shall be inspected." 8 U.S.C. § 1225(a)(3) (emphasis added). The word "[o]therwise' means 'in a different way or manner[.]'" Texas *Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster's Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) ("or otherwise" means "the first action is a subset of the second action"). Being an "applicant for admission" is thus a particular "way or manner" of seeking admission, such that an alien who is an "applicant for admission" *is* "seeking admission" for purposes of § 1225(b)(2)(A).[4] No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless

[4] As § 1225 shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission," not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not "applicants for admission" because they are already admitted, but they still may be deemed to be "seeking admission" in some circumstances. *See* 8 U.S.C. § 1103(A)(13)(C).

deemed to be 'seeking admission' under the immigration laws"). Accordingly, § 1225(b) unambiguously provides that an alien who is an "applicant for admission" is "seeking admission," even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

As explained above, an "applicant for admission" is "seeking admission" under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that "is not a license to rewrite" § 1225 "contrary to its text." *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) ("sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance" especially when "the arguably redundant words that the drafters employed … are functional synonyms" (alterations accepted and emphasis in original)).

"The canon against surplusage is not an absolute rule." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). "Redundancies are 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*, 590 U.S. at 239. "[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Id.* Thus, as the Supreme Court explained in *Barton*, "[s]ometimes the better overall reading of a statute contains some redundancy." *Id.*

Moreover, "the surplusage canon … must be applied with statutory context in mind" and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), Pub. L. 104-208,

110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

C. The Government's Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly, the Government's reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to a result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained

pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA's prior framework, which distinguished between aliens based on physical "entry," had

> 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 subject to mandatory custody.

Yajure Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (3d. Cir. 2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") ("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").

Congress discarded that regime through enactment of IIRIRA. Among other things, that law had the goal of "ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, IIRIRA replaced the prior focus on physical "entry" and instead made lawful "admission" the governing touchstone. IIRIRA defined "admission" to 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) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the "pivotal factor in determining an alien's status" would be "whether or not the alien has been *lawfully* admitted." House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner's interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with

law yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner's interpretation. *King*, 576 U.S. at 492 (rejecting "petitioners' interpretation because it would … create the very [thing] that Congress designed the Act to avoid").

The Government's reading, on the other hand, is true to Congress's intent and should be adopted.

D. The Government's Reading Accords with *Jennings*.

The Government's interpretation is consistent with the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to "impos[e] an implicit 6-month time limit on an alien's detention" under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with the Government's reading, the Court recognized in its description of § 1225(b) that § "1225(b)(2) …. serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* at 287.

III. Petitioner Does Not Have Standing to Bring His Claim Under the Administrative Procedure Act ("APA")

Petitioner also does not have standing to bring his APA claim. By the APA's terms, it is available only for final agency action "for which there is no other adequate remedy in court." 5 U.S.C. § 704. Thus, Petitioner's APA claim is independently barred by this limitation in 5 U.S.C. § 704.

In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, "necessarily imply the invalidity of their confinement" those claims "must be brought in habeas." 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, "given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." *Id.* at 1007 (Kavanaugh, J. concurring). Here, as in *J.G.G.*, habeas is an "adequate remedy" through which Petitioner can challenge his detention. Even if Petitioner's APA claim had merit, which it does not, the result would be the same as that in habeas – release from detention. The Supreme Court's holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953)).

WHEREFORE, for the foregoing reasons, the Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief.

Respectfully submitted,

JASON A. READING QUIÑONES
UNITED STATES ATTORNEY

/s/Chantel Doakes Shelton
CHANTEL DOAKES SHELTON
Assistant United States Attorney
Florida Bar No. 0118626
United States Attorney's Office
500 E. Broward Blvd., Suite 700
Ft. Lauderdale, FL 33394
Phone: (954) 660-5770
Email: chantel.doakesshelton@usdoj.gov
Counsel for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 8, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

/s/ Chantel Doakes Shelton
Chantel Doakes Shelton
Assistant United States Attorney

EXHIBIT LIST
Case No. 25-cv-25506-GAYLES

Exhibit A: Form I-213, Record of Deportable/Inadmissible Alien, dated November 29, 2019

Exhibit B: Notice To Appear, dated November 29, 2019

Exhibit C: Immigration Judge's Order, dated January 7, 2020

Exhibit D: Form I-213, Record of Deportable/Inadmissible Alien, dated September 18, 2025.

Exhibit E: Detention History

Exhibit F: Declaration of Deportation Officer Jocelyn L. Lopez

Exhibit G: NTA, dated October 7, 2025

Exhibit H: Immigration Judge bond order, dated October 23, 2025

Exhibit I: Immigration Judge bond order, dated December 4, 2025