

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JOSE VIDAL HERRERA-NARANJO,

Petitioner,

v.

BRYAN UHLS, *et al.*,

Respondents.

§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 4:25-CV-05756

**THE FEDERAL RESPONDENTS' REPLY FILING IN OPPOSITION TO  
PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS**

The Federal Respondents hereby file this Reply in opposition to Petitioner Jose Vidal Herrera-Naranjo's Petition for Writ of Habeas Corpus (ECF No. 1), including specifically addressing the arguments raised by Petitioner in his latest supplemental briefing (ECF No. 8).

Petitioner first begins by trying to convince the Court what it must: that the Court's previous legal analysis was incorrect. While the Government, and this Court itself, has at length rejected the arguments advanced by Petitioner, the Federal Respondents will herein elaborate on *just how correct* the Court's prior decisions have been, including highlighting multiple compelling analyses that had not been raised in *Cabanas*.

Recognizing that this case rises and falls on interpreting 8 U.S.C. § 1225(b)(2)(A), knowing how this Court has already ruled, Petitioner attempts to avoid the inevitable by amplifying a throwaway due process argument which can be swiftly rejected. His due process

argument(s?)<sup>1</sup> are vague, inconsistent, and without merit. Indeed, one apparent theory he relies on is not only legally erroneous but a new theory not even properly before the Court.

**A. THE STATUTORY QUESTION: APPLICABLE DETENTION STATUTE**

In urging the Court to re-consider its prior decision, Petitioner indeed concedes that he is an “applicant for admission,” as he is “[a]n alien present in the United States who has not been admitted[.]” 8 U.S.C. § 1225(a)(1); ECF No. 8 at 2. In turn, the INA instructs that “in the case of an alien who is an applicant for admission,” if “an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). Petitioner also concedes that he is “not clearly and beyond a doubt entitled to be admitted,” and does not contest that this provision, if applicable, mandates detention. ECF No. 8 at 2.

To avoid the statute’s unambiguous edict requiring detention, Petitioner plays his only remaining card: advancing a convoluted reading of the statute which attempts to draw a distinction where one does not exist. Specifically, he argues that while “an applicant for admission,” he is not “seeking admission.” This argument, however, crumbles upon a sincere inquiry. The Government has previously argued to this Court, and this Court itself has already explained, why this is so. The Federal Respondents need not and will not regurgitate such reasoning, as the Court is of course familiar with its own prior opinion. *See Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331, at \*4–5 (S.D. Tex. Nov. 13, 2025) (refuting the “seeking admission” argument). The Federal Respondents will only add that there are even

---

<sup>1</sup> It is unclear whether Petitioner advances multiple distinct reasons why his detention violates due process. In an abundance of caution, the Federal Respondents will read his briefing as doing so.

additional points not previously raised in *Cabanas* (and thus not present in the *Cabanas* opinion) which only reinforce the Court's prior ruling.

1. “Applicant for admission” is a subset of, not distinct from, “seeking admission.”

As already briefed, these two phrases are uttered in the same sentence and nothing textual nor contextual indicates that “seeking admission” is somehow a distinct concept.<sup>2</sup> *See, e.g., Garibay-Robledo v. Noem*, 1:25-CV-00177, 2025 WL 3264478 at \*4 (Hendrix, J.) (quoting Black's Law Dictionary and explaining that there is no material distinction between the concept of being an “applicant” for something and “seeking” something, and “[i]nsofar as the term ‘applicant for admission’ is more passive than ‘seeking admission,’ this is inherent in the nature of agent nouns and their corresponding gerunds.”).

But not only so, the text of an adjacent provision within Section 1225 in fact *confirms* that an alien who is an applicant for admission is necessarily seeking admission. Subsection (a)(3) provides, “All aliens (including alien crewmen) who are applicants for admission *or otherwise seeking admission* or readmission to or transit through the United States shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3) (emphasis added). The “or otherwise” is highly instructive, as it highlights that the INA considers “applicants for admission” to be a subset of “seeking admission.” *See, e.g., 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”). This language informs that if anything, not all aliens “seeking

---

<sup>2</sup> Indeed, it would be bafflingly illogical to construe a statute to begin a sentence by defining the subject (“in the case of an alien who is an applicant for admission”) only to switch to a new subject (“an alien seeking admission”) right after defining it.

admission” are necessarily “applicants for admission,”<sup>3</sup> but all “applicants for admission” are necessarily “seeking admission.” And as Petitioner does not contest, he is an applicant for admission.

2. In any event, “seeking admission” does not mean seeking entry.

The text of the INA confirms the Court’s reading in an additional way, too. Perhaps, at most, the term “seeking admission” *colloquially* might sound inapplicable to an alien already in the United States; as the argument might go, how could someone be seeking admission into the country if they are already in the country? That argument may sound compelling, as it has to many district courts; but to someone well-versed in the INA, this argument is misguided.

This colloquial argument is wrong because the INA does not speak colloquially—and *certainly not in this context*. At baseline, recall that the statute defines who is considered an “applicant for admission,” stating that “[a]n 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). By this text, the INA has deemed as “applicants for admission” aliens who have already entered the country. *Id.* This point is all the clearer as such aliens stand in contrast—in the same sentence—with aliens “who arrive[] in the United States,” i.e., aliens who are not already present in the United States. Section 1225(a)(1) unmistakably requires mandatory detention for both groups of aliens.

---

<sup>3</sup> As an aside, it makes sense that not every alien “seeking admission” is an “applicant for admission,” given that an applicant for admission is defined as applicable to an alien present in the United States. Of course, an alien might be seeking admission into the United States but not already be physically inside the United States at the time and therefore would not be an applicant for admission.

But aside from Section 1225(a)(1)'s definition of "applicant for admission" belying the "seeking admission" argument, the most compelling confirmation of the Government's position indeed appears in the INA's statutory definition of the term "admission." The INA defines the word "admission." And it defines "admission" not as "entry," as Petitioner would need, but rather as "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); *see Olalde v. Noem*, No. 1:25-CV00168, 2025 WL 3131942, at \*3 (E.D. Mo. Nov. 10, 2025) (making this same observation when ruling for the government). An alien is an applicant for admission notwithstanding any time he has been present in the United States if that alien has never lawfully gained entry into the country; he is still "seeking admission" because he has not attained what "admission" means: "lawful entry."<sup>4</sup> 8 U.S.C. § 1101(a)(13)(A).

In sum, the INA both (1) refers to "applicants for admission" as a subset of aliens "seeking admission," and (2) defines "admission" as "lawful entry," thereby refuting the notion that the Government's position would have aliens like Petitioner seeking what they already have. For both these additional reasons not briefed in *Cabanas*, the Court's prior judgment on this matter was correct.<sup>5</sup>

---

<sup>4</sup> By way of a common analogy, a person might be physically present in a movie theater after sneaking into the theater, but that of course does not mean that he has been admitted into the theater.

<sup>5</sup> The Federal Respondents need not discuss Petitioner's re-urging of the Laken Riley Act, which the Court already addressed in *Cabanas*. But the Federal Respondents would briefly comment that the only relevance the Laken Riley Act has on this issue is as an interpretive canon. Interpretive canons only come into play at all when the text is ambiguous, which the Court has already found inapplicable on this issue. And while Petitioner calls the Laken Riley Act "the surplusage problem," the Government has argued, and this Court has explained, that it is in fact not a "problem" at all. *See Cabanas*, 2025 WL 3171331 at \*6.

**B. DUE PROCESS CLAIM(S)**

Finally, Petitioner's supplemental brief offers vague and inconsistent due process claim(s) which, however construed, can be swiftly rejected. It is not entirely clear whether Petitioner makes one or multiple due process claims. In the interest of thoroughness, and generously construing Petitioner's allegations, the Federal Respondents will address each claim that he arguably makes.

**1. Challenge to His Location of Arrest**

In Petitioner's pleadings, he asserts that his "unexplained arrest outside of an immigration courtroom violates his Fifth Amendment right to due process." ECF No. 1 ¶ 31. Similarly, his supplemental briefing argues that the case is distinguishable from *Cabanas* where the arrest came after a traffic stop, whereas here "he was quite literally in the midst of an immigration court hearing when ICE decided to detain him." ECF No. 8 at 7.

To the extent Petitioner is arguing that an arrest at an immigration courtroom is unconstitutional, neither law nor intuition support this argument. Rather, such arrests amount at most to sympathetic facts which this Court has explained does not change the text of the mandatory detention provision. *Cabanas*, 2025 WL 3171331 at \*6. Nor is such location of arrest a special due process trigger that would not be implicated in a traffic stop arrest as was the case in *Cabanas*. Petitioner has repeatedly represented to the Court that "every court to weigh the constitutionality of ICE's notorious 'hallway' arrests has found that they at least probably violated due process." ECF No. 1 ¶ 22. This is a mischaracterization of the law, as Petitioner is incorrectly suggesting that a particular fact involved in a particular ruling had any

bearing on that ruling.<sup>6</sup> In six of the seven cases he cites (ECF No. 8 at 7),<sup>7</sup> the petitioner was attending or had just attended an immigration hearing when he was arrested. But the fact as to where the arrest took place did not bear on a single court's analysis in holding the detention without bond unlawful, as those courts found that the detention without bond violated the law for other reasons (such as finding that Section 1226(a), which required a bond, was applicable). And none of those cases involved a detainee that the court found to be detained under the mandatory detention provision.

That Petitioner found seven habeas grants where the arrest underlying the challenged detention \*happened\* to take place in immigration court does not mean that there is a rule against such arrests, as Petitioner implies.

Moreover, it bears mention that to the extent Petitioner is challenging his *arrest*, that arrest does not change that his *detention* is mandated by statute, as this Court has held. It is dubious that such a claim sounds in habeas at all, as habeas only challenges the legality of detention. *See, e.g., Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020) (“Habeas has traditionally been a means to secure *release* from unlawful detention”) (emphasis in the original); *Preiser v. Rodriguez*, 411 U.S. 475, 484, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973) (“It is clear . . . from the common-law history of the writ . . . that the essence of habeas corpus is an attack by a person in custody upon the legality of that

---

<sup>6</sup> Of note, Petitioner makes the sweeping and absolute factual statement that “every court” has held an arrest in this manner unlawful. But he cites a total of six cases “hallway arrest” cases (*see* n.8), all coming from district courts in the Second and Ninth Circuits. It is dubious that these cases represent the totality of such federal cases, and it is also inconceivable that Petitioner went through and confirmed that every case across every circuit reached that result.

<sup>7</sup> One case he cites offers no support for this “hallway” theory, as in *Francois v. Wamsey*, 2025 WL 3063251, at \*1 (W.D. Wash. Nov. 3, 2025), the petitioner “was detained by [ICE] while leaving Walmart.”

custody[.]”). A challenge to a manner of arrest more closely resembles a constitutional tort claim than a habeas action. If Petitioner is alleging that his arrest itself is unlawful, the appropriate vehicle to pursue such a claim would be through a civil rights or tort action (to the extent such a claim were viable).

## 2. Challenge to His Detention

Petitioner, by his own words, seems to be challenging the arrest itself (which in any event is not a challenge as to the lawfulness of his detention).<sup>8</sup> Yet, he seems to contradict and/or pivot from this point in his supplemental brief, arguing that his due process challenge “is about detention which is unlawful because it affirmatively defeats the Government’s own stated justifications for pursuing it.” ECF No. 8 at 7. This argument appears to be different, and purports to essentially be arguing that Petitioner’s detention is unlawful because it does not advance the purposes of detention: preventing flight risk and danger to the community. *Id.*

To the extent Petitioner also makes this argument, this Court has already rejected it. *Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493, at \*1 (S.D. Tex. Nov. 24, 2025) (Eskridge, J.) (rejecting the due process claim of an alien detained under 8 U.S.C. § 1225(b)(2)(A), observing that *Zadydas* was inapplicable to non-post-removal-period detention and that the Supreme Court has stated that detention during removal proceedings does not create constitutional issues). He attempts to escape the Supreme Court’s holding in *Demore v. Kim*, 538 U.S. 510, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003), by arguing that while

---

<sup>8</sup> To be sure, under the mandatory detention provision, his detention is not merely permitted but in fact required. *See* 8 U.S.C. § 1225(b)(2)(A) (“the alien shall be detained for a proceeding”).

immigration detention during removal proceedings is valid, it only exists for the “twin purposes” of preventing flight risk and danger to the community, which is not being advanced here. ECF No. 8 at 7. This argument turns a blind eye to the very context that *Demore* arose in, where the Supreme Court upheld mandatory detention without bond during removal proceedings even if the alien was not a danger to society nor a flight risk.<sup>9</sup> *See Demore*, 538 U.S. at 524 (noting that the Supreme Court had already rejected the claim that an alien is entitled to be released from detention if he did not pose a flight risk, as detention “is necessarily a part of th[e] deportation procedure”) (quotation omitted).

To not lose the forest in the trees, it bears useful reminder that 8 U.S.C. § 1225(b)(2)(A) is the mandatory detention provision, and provides for just that: *mandatory* detention. *See id.* (instructing that “the alien shall be detained”). If Petitioner’s argument is that his detention without a bond hearing under that statute is a violation of due process, he is necessarily making the claim that the mandatory detention statute itself is unconstitutional (since the statute does not permit release at all). Petitioner has failed to identify, and undersigned counsel is unaware, of a single case holding that 8 U.S.C. § 1225(b)(2)(A) is unconstitutional (as opposed to the many courts who have found it inapplicable). Short of a determination that the statute itself unconstitutional, Petitioner’s detention without a bond hearing is not unconstitutional.

### 3. Liberty Interest in a Work Authorization

Finally, Petitioner makes an unavailing claim that because he has been granted work authorization, that work authorization creates a due process right that somehow means he

---

<sup>9</sup> Indeed, in *Demore*, the petitioner was never found either a danger to society or a flight risk. 538 U.S. at 510.

should be released. As an initial matter, this “work authorization” theory is nowhere in his pleadings and is not properly before the Court. *E.g., De Franceschi v. BAC Home Loans Serv'ing, L.P.*, 477 F. App'x 200, 204 (5th Cir. 2012) (explaining that courts may reject not only “claims” but also “theories of liability” not present in the complaint). This novel theory is a last-minute attempt to muddy otherwise clear waters.

Petitioner first appears to argue that this work authorization undermines the notion that he is a public safety risk, but as already explained *supra* Part B.2, the public safety inquiry is irrelevant under the mandatory detention statute. But he then proceeds to argue, albeit vaguely, that this work authorization somehow “created a reliance interest on Petitioner’s part.” ECF No. 8 at 8. The cases he cites does not even arguably purport to stand for the proposition that a work authorization is a protected liberty interest that can supply the basis for getting out of mandatory detention. Nor is there any authority—regulatory, statutory, or in the common law—that supports the theory Petitioner advances here. Rather, an employment authorization “does not confer admission status,” *Figueroa v. Holder*, 455 F. App'x 492 (5th Cir. 2011), and an employment authorization is just that—“it simply provides authorization to work[.]” USCIS POLICY MANUAL, <https://www.uscis.gov/policy-manual/volume-10-part-a-chapter-4>. Indeed, a person’s interest in not being detained is “the most elemental of liberty interests[.]” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004). It is far-fetched to think that while detention itself, i.e., this liberty interest in freedom itself, does not run afoul of the Due Process Clause in the context of aliens in removal proceedings, *see Demore*, 538 U.S. at 531, somehow an employment authorization would supply that very constitutional violation.

## II. CONCLUSION

For the foregoing reasons, the Federal Respondents respectfully request that the Court deny the habeas petition and enter judgment as a matter of law finding that Petitioner has not proven that his detention is unlawful.

Dated: December 18, 2025

Respectfully submitted,

NICHOLAS J. GANJEI  
UNITED STATES ATTORNEY

By: /s/ Shawn D. Ren  
Shawn D. Ren, Attorney-in-Charge  
Assistant United States Attorney  
Southern District No. 3892202  
Texas Bar No. 24132873  
1000 Louisiana, Suite 2300  
Houston, Texas 77002  
Tel: (713) 567-9569  
Fax: (713) 718-3300  
E-mail: shawn.ren@usdoj.gov

**CERTIFICATE OF SERVICE**

I certify that on December 18, 2025, the foregoing was filed and served on counsel for Petitioner via the Court's CM/ECF service.

/s/ Shawn D. Ren  
Shawn D. Ren  
Assistant United States Attorney