UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CARLOS LUIS GONZALEZ CARMONA,

Petitioner,

v. Case No. 2:25-cv-1128-SPC-DNF

WARDEN, GLADES COUNTY DETENTION CENTER, et al., (all official capacity),

Respondents.
_____/

Response to Habeas Petition

The Federal Respondents respond to Petitioner Ernesto Gonzalez Carmona Perez's Petition for Writ of Habeas Corpus (Doc. 1). See (Doc. 7). The Court lacks jurisdiction. Apart from that, Gonzalez Carmona's detention is lawful. So the Court should deny the writ and dismiss this action.

Background

Gonzalez Carmona is a native of Cuba who unlawfully entered the United States in October 2021. (Doc. 1 at 8; Ex. 1 at 18). DHS arrested him at the border in Texas. (Doc. 1 at 8; Ex. 1 at 18). DHS took Gonzalez Carmona into detention—serving him with a Form I-862, Notice to Appear ("NTA"), Form I-200, and Form I-220A, Order of Release on Recognizance ("OREC"). (Doc. 1-4; 1-5; 4). The original NTA charged as inadmissible for unlawful presence without admission or parole

under 8 U.S.C. § 1182(a)(6)(A)(i). (Doc. 1-4). The OREC permitted his release pending full removal proceedings under 8 U.S.C. § 1229a. (Doc. 1-5).

In February 2022, Gonzalez Carmona filed a Form I-589, Application for Asylum and Withholding of Removal with U.S. Citizenship and Immigration Services ("USCIS"). (Doc. 1-7). As the resulting Form I-797C, Notice of Action, states, "**THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.**" (Doc. 1-7). USCIS did, however, grant Gonzalez Carmona an employment authorization document ("EAD"). (Doc. 1-10).

In April 2025, DHS issued another NTA—setting removal proceedings for November 4. (Ex. 1 at 1-3). At the hearing, DHS moved to dismiss the removal proceedings. (Doc. 1 at 9). Gonzalez Carmona did not oppose that motion, and the immigration judge ("IJ") granted DHS's motion and dismissed the § 1229a proceedings. (Ex. 1 at 12-13).

After this hearing, ICE took Gonzalez Carmona into detention for expedited removal proceedings under 8 U.S.C. § 1225(b)(1). (Ex. 1 at 15-19). ICE determined Gonzalez Carmona was inadmissible as an applicant for admission without valid immigration documents under 8 U.S.C. § 1182(a)(7)(a)(i)(I). (Ex. 10 at 1-2). As a result, ICE entered an expedited order of removal under 8 U.S.C. § 1225(b)(1). (Ex. 1 at 15). This Form I-860, Notice and Order of Expedited Removal, was a final order of removal. (Ex. 1 at 15).

Originally, Gonzalez Carmona was detained at "Alligator Alcatraz." (Doc. 1 at 4). He is now held at Glades. (Doc. 1 at 4). And ICE is currently working to remove

Gonzalez Carmona to Mexico. (Ex. 1 at 14).

Legal Standard

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021).

Discussion

As explained, the Court lacks jurisdiction. Even if it disagrees, however, Gonzalez Carmona's claims fail on the merits. Before getting to those matters, ICE must clarify its basis of detention. 28 U.S.C. § 2243.

A. Habeas Return on Detention

In a habeas case, the respondent "shall make a return certifying the true cause of the detention." *Id.* That offered basis of detention is conclusive unless petitioner proves, or the Court finds, it is not true. *Id.* § 2248.

ICE is detaining Gonzalez Carmona under the mandatory detention provisions of 8 U.S.C. § 1225(b)(1). Gonzalez Carmona is free to contend his detention under § 1225 is unlawful. But § 1225(b)(1)—not §§ 1225(b)(2) or 1226(a)—is the certified basis on which ICE is detaining Gonzalez Carmona. No evidence suggests otherwise; in fact, the undisputed evidence establishes ICE's basis.

B. Jurisdiction

There is no need to get into the nuances of § 1225 and § 1226 since the Court

lacks subject-matter jurisdiction over Gonzalez Carmona's claims. There are four reasons why.

1. Jurisdiction Stripping Under § 1252(a)

Federal courts have limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They "possess only that power authorized by Constitution and statute." *Id.* (citations omitted).

In immigration habeas cases related to removal proceedings—as here—the Immigration and Nationality Act ("INA") divests this Court's jurisdiction to consider Gonzalez Carmona's claims challenging the dismissal of his removal proceedings and decision to seek expedited removal under § 1225(b)(1). 8 U.S.C. § 1252(a)(2)(A). This is a different type of jurisdiction-stripping (applicable only to expedited removal) than the Court has seen frequently in the last few months.

The INA specifically stripped the Court's jurisdiction (via habeas or otherwise) to review:

> (i) . . . any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1) . . .,
>
> (ii) . . . a decision by the Attorney General to invoke the provisions of such section,
>
> (iii) the application of such section to individual aliens, including the determination made under section 1225(b)(1)(B) . . ., or
>
> (iv) . . . procedures and policies adopted by the Attorney General to implement the provisions of section 1225(b)(1).

8 U.S.C. § 1252(a)(2)(A). No amount of wordplay could characterize this case as

anything other than a direct challenge on the implementation, invocation, application, and/or policies regarding § 1225(b)(1) as applied to Gonzalez Carmona. 8 U.S.C. § 1252(a)(2)(A)(i)-(iv).

These jurisdiction-stripping provisions are all subject to limited exceptions for review set out in § 1252(e). Specifically, habeas cases involving "any determination made under section 1225(b)(1) . . . shall be limited to determinations of—"

> (A) whether the petitioner is an alien,
>
> (B) whether the petitioner was ordered removed under such section, and
>
> (C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 1157 of this title, or has been granted asylum under section 1158 of this title, such status not having been terminated, and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 1225(b)(1)(C) of this title.

8 U.S.C. § 1252(e)(2). None of these circumscribed exceptions apply to Gonzalez Carmona. It is undisputed he is an alien, (Doc. 1 at 6); before this lawsuit, he was ordered removed under § 1225(b)(1), (Ex. 1 at 15); and he cannot prove any lawful admission, grant of asylum, or any other statutory ground for the Court's review. In short, there is nothing within the Court's jurisdiction to review. Congress broadly stripped jurisdiction over this exact case.

Crucially, courts cannot review the wisdom of these ICE determinations. For example, "In determining whether an alien has been ordered removed under section 1225(b)(1) of this title, the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner." *Id.* § 1252(e)(5). "There shall

be no review of whether the alien is actually inadmissible or entitled to any relief from removal." Id. Again, here, it is undisputed the expedited removal order was issued and related to Gonzalez Carmona. (Ex. 1 at 15). So even if the Court could determine Gonzalez Carmona was entitled to relief from removal—which he isn't—it still lacks jurisdiction to do so. 8 U.S.C. § 1252(e)(5).

What's more, "review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia." 8 U.S.C. § 1252(e)(3)(A). Put different, one cannot challenge the general implementation of expedited removal under § 1225(b)(1) in the Middle District. Any broad policy or practices challenge to application of expedited removal can only be pursued in Washington. 8 U.S.C. § 1252(e)(3)(A); *e.g.*, *Las Americas Immigrant Advocacy Ctr. v. Wolf*, 507 F. Supp. 3d 1, 19 (D.D.C. 2020).

Several decisions address similar jurisdictional questions. *Noori v. Larose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *7-8 (S.D. Cal. Oct. 1, 2025); *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *6-7 (W.D.N.Y. July 16, 2025). Those cases, however, concerned dissimilar aliens on humanitarian parole or in full removal proceedings. Further, those petitioners did not challenge the unreviewable discretionary decision to pursue expedited removal. Here, Gonzalez Carmona asks the Court to rule that ICE could not pursue expedited removal, undo his removal order, and release him into the United States with no legal status. The Court has no jurisdiction to do any of these things.

DHS recognizes the Court's ruling in *Alfonso Perez v. Warden*, No. 2:25-cv-947-

SPC-DNF, 2025 WL 3466956 (M.D. Fla. Dec. 3, 2025). Respectfully, it disagrees. The Supreme Court addressed—and rejected—a Suspension Clause challenge to the jurisdiction stripping provisions of §§ 1252(a)(2), (e)(2). *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020).

As *Thuraissigiam* explained, the Suspension Clause has only been assumed to protect a highly circumscribed and limited right to habeas corpus—i.e., "the writ as it existed in 1789, when the Constitution was adopted." *Id.* at 116 (cleaned up). But habeas was not "understood at the time of the adoption of the Constitution to permit a petitioner to claim the right to enter or remain in a country or to obtain administrative review potentially leading to that result." *Id.* at 117. "The writ simply provided a means of contesting the lawfulness of restraint and securing release." *Id.*

Gonzalez Carmona specifically asks the Court to "Void the Expedited Removal Order pursuant to 8 U.S.C. § 1252(e)(2)." (Doc. 1 at 25). Those are his words—not DHS's characterization of them. He asks the Court to violate the jurisdiction-stripping provisions. 8 U.S.C. §§ 1252(a)(2), (e)(2). Likewise, Gonzalez Carmona requests the Court ignore the Supremes and vacate a removal order even though "that relief falls outside the scope of the common-law habeas writ." *Thuraissigiam*, 591 U.S. at 118.

Reliance on *Boumediene v. Bush* does not change the outcome. 553 U.S. 723 (2008). As the *Thuraissigiam* explained, that case "is not about immigration at all." 591 U.S. at 136. *Boumediene* merely "held that suspected foreign terrorists could challenge their detention at the naval base in Guantanamo Bay." *Id.* In short, "They sought only

to be released from Guantanamo, not to enter this country." *Id.* at 136-37. "And nothing in the Court's discussion of the Suspension Clause suggested that they could have used habeas as a means of gaining entry." *Id.* at 137.

To be clear, the Suspension Clause holding in *Alfonso Perez*, 2025 WL 3466956, is extremely broad. It renders, impliedly if not expressly, the jurisdiction-stripping provisions unconstitutional in light of the Suspension Clause to the extent that they do not permit review of whether § 1225(b)(1) was properly applied to a habeas petitioner. The Supreme Court has never rendered such a far-reaching decision in the context of the Suspension Clause.

The Court cannot ignore congressional limitations on its jurisdiction or Supreme Court rulings on those matters. DHS is trying to remove Gonzalez Carmona from the United States, which he is trying to stop. While understandable that Gonzalez Carmona wants to remain here, that affirmative immigration relief has never been the proper remedy in a habeas action.

As explained, there is no jurisdiction given the INA's limitations set out in § 1252(a)(2)(A), (e).

2. Jurisdiction Stripping Under § 1252(g)

In immigration habeas cases related to removal proceedings—as here—the Immigration and Nationality Act ("INA") divests this Court's jurisdiction to consider Gonzalez Carmona's claims challenging his detention pending a removal determination. 8 U.S.C. § 1252(g).

There is no jurisdiction to review "any cause or claim . . . arising from the

decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). This provision bars habeas review in federal courts when the claim arises from "discrete acts of commencing proceedings, adjudicating cases, and executing removal orders." *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483 (1999) (cleaned up). These activities "represent the initiation or prosecution of various stages in the deportation process" that Congress had "good reason" to withhold from judicial review. *Id.*

When construing § 1252(g), one must limit the application "to just those three specific actions" listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, "courts must focus on the action being challenged." *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1258 (11th Cir. 2020). At bottom, § 1252(g) bars review if the conduct "to commence proceedings, adjudicate cases, or execute removal orders is the basis of the claim." *Gupta*, 709 F.3d at 1065.

The law is clear:

> Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings.

Id.; *see also Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("Because [the alien] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*."); *Johnson v. U.S. Attorney General*, 847 F. App'x 801, 802 (11th Cir. 2021). "By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal—and thus

necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process." *Alvarez*, 818 F.3d at 1203. So § 1252(g) strips the Court's jurisdiction over habeas petitions challenging detention pending removal proceedings.

It is undisputed that ICE detained Gonzalez Carmona to commence expedited removal proceedings. It entered an order of removal. (Ex. 1 at 15). So now, ICE is detaining Gonzalez Carmona "while awaiting a removal determination." *Gupta*, 709 F.3d at 1065. Under *Gupta*'s binding interpretation of § 1252(g), the Court plainly has no jurisdiction. *Id.* Gonzalez Carmona's entire case is based on whether ICE is using the correct statute to pursue removal proceedings (i.e., § 1225(b)(1)). Congress stripped the Court's jurisdiction to review those discretionary decisions. In *Alvarez*, the Eleventh specifically held as much. 818 F.3d at 1203 (Jurisdiction stripped for "considering whether the agency should have used a different statutory procedure to initiate the removal process.").

As the Eleventh Circuit made clear, what matters is whether the challenged conduct arose from decisions or actions to commence removal proceedings. *Gupta*, 709 F.3d at 1065 ("Each of these claims, then, challenges the actions the agents took to commence removal proceedings—exactly the claims that § 1252(g) bars from the subject-matter jurisdiction of federal courts."). The Eleventh expressly reaffirmed this in several other decisions (both published and unpublished):

> Because [plaintiff] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.

Alvarez, 818 F.3d at 1204; *see also Johnson*, 847 F. App'x at 802. The decisions and actions to detain Gonzalez Carmona (under either § 1225 or § 1226) arise from the commencement and execution of removal proceedings. The INA strips jurisdiction over that review. *Gupta*, 709 F.3d at 1065; 8 U.S.C. § 1252(g).

What's more, "the sole function of habeas corpus is to provide relief from Unlawful imprisonment or custody, and it cannot be used for any other purpose." *Cook v. Hanberry*, 592 F.2d 248, 249 (5th Cir. 1979). So the only relief a habeas petitioner may receive is release. *Thuraissigiam*, 591 U.S. at 119. Gonzalez Carmona decided to pursue habeas seeking review of agency action. Put different, this case is only about whether DHS's decision to apply § 1225(b)(1) was appropriate. *Gupta* and its progeny hold the Court has no jurisdiction over such actions. Regardless of that broad jurisdictional bar, the Court has no habeas jurisdiction to prohibit transfer or institute a different type of removal proceedings. *See* 8 U.S.C. § 1231(g)(1); *Rathod v. Barr*, No. 1:20-CV-161-P, 2020 WL 1492790, at *2 (W.D. La. Mar. 5, 2020), *R&R adopted*, 2020 WL 1501891 (Mar. 25, 2020).

Full disclosure: Judges Dudek and Steele issued Orders relevant to this question. Judge Steele's case, *Brito Matom v. ICE*, No. 2:25-cv-648-JES-NPM, 2025 WL 2577424 (M.D. Fla. Sept. 5, 2025), is easily distinguished because ICE served Gonzalez Carmona with an NTA well before this detention and issued an expedited removal order. Judge Dudek's case, *Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-DNF, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025), is also different. In *Hernandez*

Lopez, the core issue was petitioner's classification as detained under § 1225(b)(2) while in full removal proceedings. Gonzalez Carmona's circumstances entirely differ; he was already ordered removed through expedited proceedings under § 1225(b)(1). Those other cases also had ongoing full removal proceedings; whereas, Gonzalez Carmona has an expedited order of removal and the IJ granted dismissal of his full removal proceedings. In sum, the Court's dismissal here for lack of jurisdiction would be consistent with *Brito Matom* and *Hernandez Lopez*.

The Court also lacks jurisdiction on separate grounds.

3. Zipper Clause

The INA precludes review of "all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States" except judicial review of a final order of removal. 8 U.S.C. § 1252(b)(9). This is known as the "zipper clause" and applies where a petitioner seeks "review of an order of removal [or] the decision to seek removal." *Canal A*, 964 F.3d at 1257; *DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 19 (2020). In reading this subsection alongside 8 U.S.C. § 1252(a)(5)—which limits review—courts conclude petitioners must funnel all aspects of challenges to removal proceedings through the avenue set out in § 1252(a)(5). *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) ("The REAL ID Act clarified that final orders of removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed only in the courts of appeals."); *see also Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005) (There is "clear intent to have all challenges to removal orders heard in a single forum (the courts of appeals).").

The zipper clause restrictions are broad but not unlimited. *Canal A*, 964 F.3d at 1257. Still, a claim arising from actions or proceedings brought to remove an alien clearly falls within the clause. *See Regents of Cal.*, 591 U.S. at 19.

Here, Gonzalez Carmona challenges ICE's detention determination. This was an action arising from ICE's choice to carry out proceedings to remove him from the United States. The zipper clause is in full force; judicial review by this Court is inappropriate and contrary to the INA. 8 U.S.C. § 1252(b)(9).

There is one final jurisdictional issue.

4. Failure to Exhaust

Gonzalez Carmona has yet to exhaust his administrative remedies. In fact, he never sought a BIA appeal. (Doc. 1 at 10). To start, Gonzalez Carmona agreed to dismiss removal proceedings; then, he failed to take an appeal from the IJ's decision. The Court should not engage in concurrent appellate review on an IJ determination on dismissal of removal proceedings. *See Mata Velasquez*, 2025 WL 1953796, at *7 ("The government is correct that this Court does not have jurisdiction to decide the question—currently pending before the BIA—of whether the IJ properly granted the government's motion to dismiss the section 240 proceedings.").

5. Conclusion

As explained, the Court lacks jurisdiction over this habeas action. Yet even if it disagrees, detention is still lawful.

C. Merits

Alternatively, the Petition fails for three reasons: (1) § 1225(b) was properly

applied; (2) Gonzalez Carmona does not identify a violation of law supporting his release; and (3) detention under § 1225(b)(1) is appropriate to the extent that the Court can review it.

1. Detained at Border and Subject to § 1225(b)

From his initial unlawful entry into America, Gonzalez Carmona was detained and subject to § 1225(b). In several recent Orders, Judge Dudek consistently explained this result. *Aranda Garcia v. Warden*, No. 2:25-cv-1053-KCD-DNF, 2025 WL 3537592, at *1 (M.D. Fla. Dec. 10, 2025); *Duenas Garcia v. ICE*, No. 2:25-cv-1004-KCD-NPM, 2025 WL 3277163, at *2 (M.D. Fla. Nov. 25, 2025); *Pirto v. Warden*, No. 2:25-cv-966-KCD-DNF, Doc. 13 (M.D. Fla. Nov. 13, 2025). As he explained yesterday:

> [Petitioner] was apprehended at the border. That puts him squarely under § 1225. The fact that [Petitioner] spent time in the United States after being released on an order of recognizance—and was eventually apprehended in the country—does not change his classification.

Aranda Garcia, 2025 WL 3537592, at *1.

This case is indistinguishable. The parties agree Gonzalez Carmona was immediately detained at the border. So he is subject to § 1225.

2. No Identified Unlawful Action

The Supreme "Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003). So "Congress has the authority to detain aliens suspected of entering the country illegally pending their deportation hearings." *Reno v. Flores*, 507 U.S. 292, 306 (1993). What's more, discretion over immigration detention decisions may be

delegated to the Attorney General. *Id.*

ICE exercised its delegated discretion to pursue expedited removal proceedings. That decision is without a doubt unreviewable for the reasons above. As a result of that discretionary choice, Gonzalez Carmona is subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

Understanding he cannot challenge the above, Gonzalez Carmona recasts theories to indirectly challenge unreviewable actions. In doing so, he must identify deprivation of a liberty interest. Several of his alleged grounds are facially invalid since he has no liberty interest in such matters. Specifically, Perez has no liberty interest in a particular adjudication of his Form I-589. *Kanyan v. USCIS*, No. 24-CV-8564 (RPK), 2025 WL 1489807, at *4 (E.D.N.Y. May 22, 2025) (noting no liberty interest in manner of adjudicating Form I-589). Nor does he have a liberty interest in the type of removal proceedings applied.

To be clear, aliens have a liberty interest to be free of unreasonable civil detention; yet that interest does not eliminate the Government's power to detain by law—e.g., under § 1225(b)(1)'s mandatory detention provisions. So Gonzalez Carmona must show the law was (mis)applied to him in such a way that ICE deprived him of a cognizable liberty interest.

The only recognized interest that Gonzalez Carmona may have had here was revocation of his OREC. In 2021, ICE released Gonzalez Carmona under an OREC. This was conditional parole under § 1226(a)(2)(B). *E.g.*, *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *7 (D. Ariz. Aug. 11, 2025). Last

month, ICE revoked parole when it dismissed the full removal proceedings before pursuing expedited removal under § 1225(b)(1) and detaining Gonzalez Carmona. It did so after a hearing before the IJ to determine whether it could dismiss the proceedings to pursue expedited removal. Gonzalez Carmona did not even oppose that action.

Under § 1226, ICE has complete discretion to revoke conditional parole.[1] 8 U.S.C. § 1226(b). ICE can revoke parole "at any time" then "the alien may be taken into physical custody and detained." 8 C.F.R. § 236.1(c)(9); *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019). At most, the due process protections owed here would be notice and an opportunity to be heard. *See S.D.B.B. v. Johnson*, No. 1:25-cv-882, 2025 WL 2845170, at *6-10 (M.D.N.C. Oct. 7, 2025).

Gonzalez Carmona received notice and opportunity to be heard at a hearing before the IJ before being taken into custody. Disagreement with the IJ's decision is a matter for appeal to the BIA; likewise, any dispute with his order of expedited removal can be reviewed by the Eleventh Circuit.

What's more, Gonzalez Carmona has other avenues for review available that satisfy any due process requirements regarding an asylum claim. He asserts a violation of due process because he will not be able to pursue his asylum claim within full removal proceedings. Yet review of an asylum claim by an IJ is available even to those aliens in expedited removal. *Thuraissigiam*, 591 U.S. at 109-10 (explaining process

[1] The Attorney General's discretion on these matters has long been delegated to individual ICE officers. *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 171 (D.D.C. 2015).

including that "the applicant may appeal to an immigration judge, who can take further evidence and shall make a de novo determination" (cleaned up)). In short, this is an imagined deprivation even if it were cognizable.

Gonzalez Carmona's failure to identify an unlawful action dooms his Petition.

3. Dispute Over § 1225(b)(1) Designation Unreviewable Here

At bottom, Gonzalez Carmona alleges ICE's decision to detain him under § 1225(b)(1) was inappropriate, deprived his due process, and withheld his preferred asylum adjudication. These claims fail because he cannot challenge that designation here.

To interpret the relevant parts of the INA, courts first turn to the "plain meaning of the statute." *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). If the statutory text is clear, the analysis ends. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 674 (2020).

The statutory scheme in § 1225(a) provides: "An 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); *Thuraissigiam*, 591 U.S. at 140. Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) fall under the § 1225(b)(2) catchall. *Jennings*, 583 U.S. at 287.

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the "alien shall be detained for a proceeding under section 1229a"—i.e., full removal proceedings—after "the examining immigration officer

determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Read plainly, these subsections "mandate detention of applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE detained Gonzalez Carmona under § 1225(b)(1). The parties do not dispute he entered the United States illegally and without any authorization. Gonzalez Carmona's detention pending his removal proceedings is not unlawful; rather, it is statutorily required. 8 U.S.C. § 1225(b)(1)(B)(IV); *see Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

Gonzalez Carmona argues § 1225(b)(1) does not apply to aliens previously paroled and placed in full removal proceedings. To be sure, he cites recent cases standing for that proposition. ICE disagrees with that reasoning, yet it need not respond here as the Court lacks jurisdiction to review that dispute.

Again, Congress expressly stripped this Court's jurisdiction over "implementation," "decision," and "application" of § 1225(b)(1) to Gonzalez Carmona. 8 U.S.C. § 1252(a)(2)(A)(i)-(iii). The only merits issues on § 1225(b)(1) within the Court's possible habeas jurisdiction are set out in § 1252(e)(2). On those § 1225(b)(1) questions, there is no dispute Gonzalez Carmona qualifies for the designation. Specifically, he is an alien (§ 1252(e)(2)(A)) who was ordered removed under § 1225(b)(1) (§ 1252(e)(2)(B)) and has not been granted asylum (§ 1252(e)(2)(C)). To answer any other question here would simply an extra-jurisdictional advisory

opinion on interesting questions of INA interpretation.

As explained, Gonzalez Carmona's detention under § 1225(b)(1) is lawful to the limited possible extent on this Court's review. So the INA mandates his detention.

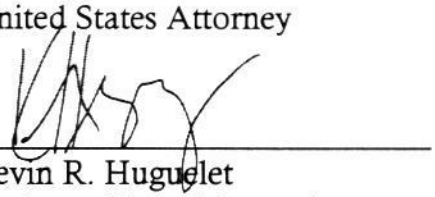
Conclusion

For those reasons, the Court must deny the Petition and dismiss this action.

Date: December 11, 2025

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney



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