

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

JACOBO ALONZO-LORENZO CIVIL ACTION NO. 25-CV-02028
VERSUS DISTRICT JUDGE EDWARDS
KRISTI NOEM, ET AL MAGISTRATE JUDGE PEREZ-MONTES

**RESPONSE IN OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS**

NOW INTO COURT, by and through the undersigned Assistant United States Attorney, come Federal Respondents and respond to Jacobo Alonzo-Lorenzo's petition for writ of habeas corpus and respectfully request that this Court deny his petition under 28 U.S.C. § 2241.¹

Petitioner alleges the following claims in his petition related to his detention: (1) violation of the INA, 8 U.S.C. § 1226(a), and (2) violation of the Administrative Procedures Act (APA) by his continued detention.² However, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) as required under controlling precedent. The Fifth Circuit Court of Appeals recently held that aliens, like the Petitioner, who entered the United States illegally and who are not "clearly and beyond a doubt entitled to be admitted," "shall be detained" under 8 U.S.C. § 1225(b)(2)(A), until the conclusion of their removal proceedings. *Buenrostro-Mendez v. Bondi*, No. 25-20496, ---- F.4th ---- 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). Moreover, Respondents have not violated the APA by

¹ The undersigned does not represent the Warden of River Correctional Center as it is a private facility, and the Warden is not a federal employee. However, all arguments made on behalf of the remaining Respondents apply with equal force to the Warden, as the Warden is detaining the Petitioner at the request of the United States.

² Petitioner also argues that exhaustion of administrative remedies would be futile, which Respondents deny. Accordingly, should the Court determine it is necessary to determine its jurisdiction to resolve this petition on the merits, Respondents will provide supplemental briefing on the issue of exhaustion of administrative remedies, which is required prior to any judicial review of the underlying immigration proceedings.

continuing Petitioner's detention in this matter. Accordingly, arguments are without merit as set forth below and this Court should deny and dismiss this habeas petition.

STATEMENT OF FACTS

The Petitioner is a national of Mexico who illegally entered the United States at an unknown place on an unknown date. Exhibit, 1, DHS Form I-862, Notice to Appear. Petitioner alleges that he has been in the United States since 2004. Pet. ¶ 22. Petitioner was not admitted or paroled after inspection by an immigration officer. Ex. 1. Instead, on September 28, 2025, Petitioner was issued a Notice to Appear for removal proceedings under INA 240, 8 U.S.C. 1229a and charging him with inadmissibility under INA 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i). Ex. 1, p. 1. Petitioner was detained by DHS and placed into removal proceedings. Petitioner was ordered removed on February 12, 2026, after a full hearing. Ex. 2, IJ Removal Order.

LEGAL STANDARD

Under 28 U.S.C. § 2241, a Petitioner can challenge the legality of his or her custody. The writ of habeas corpus is a device "used to test the legality of a given restraint on liberty." *Jones v. Cunningham*, 371 U.S. 236, 238 (1963). "Its sole function is to grant relief from unlawful imprisonment or custody...." *Pierre v. United States*, 525 F.2d 933, 935-36 (5th Cir. 1976). Habeas "is not available to review questions unrelated to the cause of detention." *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021), cert. denied, 142 S. Ct. 216 (2021) (quoting *Pierre v. United States*, 525 F.2d 933, 935-36 (5th Cir. 1976)) (internal quotations omitted).

LAW AND ARGUMENT

I. This Court lacks jurisdiction to consider Petitioner's claims.

Respondents maintain that this Court lacks jurisdiction to conduct a judicial review of Petitioner's claim for wrongful detention under 8 U.S.C. §§ 1252(g) and 1252(b)(9). However, the government acknowledges that this Court's decision in *Abdoul Karmou Diallo v. Trump, et al.*, No. 25-cv-

2022 [ECF 43] (W.D.La. Feb. 04, 2026) would control the result here if the Court adheres to that decision regarding jurisdiction, as the facts are not materially distinguishable for purposes of the Court's decision on the legal issue of whether this Court has jurisdiction to consider Petitioner's claims for unlawful re-detention and mandatory detention under § 1225(b). Thus, while the Respondents do not waive their jurisdictional arguments, specifically for the purposes of appeal, to conserve judicial and party resources while expediting the Court's consideration of this case, the government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Diallo*, and the Court can decide this issue without further briefing. Specifically, the government incorporates by reference all arguments raised in its motion to dismiss in *Abdoul Karmou Diallo v. Trump, et al*; No. 25-cv-2022 [ECF 39] (W.D.La. Feb. 04, 2026).

II. Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) pursuant to the Fifth Circuit precedent in *Buenrostro-Mendez v. Bondi*.

Petitioner's habeas petition must be denied because, based on recent Fifth Circuit precedent, he falls under the plain language of the mandatory detention provision in 8 U.S.C. § 1225(b)(2). In *Buenrostro*, the Fifth Circuit Court of Appeals held that aliens like Petitioner fall squarely within the ambit of § 1225(b)(2). *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026).³ The *Buenrostro* decision involved two consolidated cases. Both aliens in *Buenrostro* entered

³ The Fifth Circuit decision aligns with prior decisions of this Court and others within the Western District. See *Dogus Topal v. Bondi, et al*, No. No. 1:25-1612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (denying TRO for inadmissible alien present in the country without admission or parole since 2022 because alien was an "applicant for admission" under 8 U.S.C. § 1225(a) and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)); *Andrade v. Patterson, et al*, 6:25-1695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025) (denying habeas relief and TRO for inadmissible alien present in the country without admission or parole for 4 years because the alien is an "applicant for admission subject to mandatory detention under § 1225(b)(2)"); *Oliveria v. Patterson, et al*, No. 6:25-1463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (denying habeas relief to inadmissible alien present in the country without admission or parole for 9 years because the alien is an "applicant for admission" subject to mandatory detention under §1225(b)(2)); *Barrios Sandoval v. Acuna, et al* No. 6:25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (denying habeas relief to inadmissible alien present in the country for 3 years without admission or parole because the alien is an "applicant for admission" subject to mandatory detention under §1225(b)(2)); *Kum v. Ross, et al*, No. 6:25-cv-451, 2025 WL 3113644 (W.D. La. Nov. 6, 2025) (adopting report and recommendation, 2025 WL 3113646, Oct. 22, 2025) (applying the definition of "applicant for admission"

the United States illegally. 2026 WL 323330 at *3. The aliens were served NTAs, charging them with violating 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* The aliens were then detained under 8 U.S.C. § 1225(b)(2). *Id.* The Fifth Circuit held that the Government correctly applied the mandatory detention provision of 8 U.S.C. § 1225(b)(2) to the aliens because they were “applicants for admission”; who were “seeking admission;” and, who were “not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2). *Id.* In so holding, the Fifth Circuit rejected the arguments upon which many district courts relied upon in granting habeas relief.

First, the Fifth Circuit made clear that aliens who had been present illegally in the United States for many years remained “applicants for admission” who were “seeking admission.” 2026 WL 323330 at *4. The court explained that “[w]hen a person applies for something, they are necessarily seeking it.” *Id.* In so holding, the court rejected the reasoning that the phrase “seeking admission” in § 1225(b)(2)(A) uses the present tense and thus applies only to individuals “currently and actively seeking to be admitted to the United States when [they are] apprehended.” *Id.* at *3. The Fifth Circuit held that “the everyday meaning of the statute’s terms confirms that being an ‘applicant for admission’ is not a condition independent from ‘seeking admission.’” *Id.* at *4.

Second, the Fifth Circuit rejected the argument that § 1225(b)(2)’s mandatory detention provision rendered portions of § 1226 superfluous. Section 1226 still applies to aliens who have previously been admitted, such as visa holders whose visas have expired or those aliens who were erroneously admitted. 2026 WL 323330 at * 7. Similarly, the Laken Riley Act provisions of § 1226(c) still have effect and had effect even more so when it was passed: as the Executive at the time was declining to exercise its full enforcement authority under the INA. *Id.* Moreover, the *Buenrostro* court

to a petitioner who was present in the United States without having been admitted or paroled under § 1225(a)(1) and finding mandatory detention was lawful under § 1225(b)(2)).

recognized that any redundancy in the statute “does not give this court a ‘license to rewrite ... another portion of the statute contrary to its text.’” *Id.* at *5 (quoting *Barton v. Barr*, 590 U.S. 222, 239 (2020)).

Finally, the *Buenrostro* court, recognizing that the plain language of the INA controlled the analysis and outcome, rejected arguments based on the Executive’s past interpretation and application of § 1225 and § 1226. 2026 WL 323330 at * 8. The court observed that the Government’s interpretation and application of § 1225(b)(2) “better honors” the intent of Congress’s amendments to the INA—the full enforcement of § 1225(b)(2)’s plain terms “put aliens seeking admission lawfully on equal footing with those who entered without inspection.” *Id.* at 9.

Here, in all material respects, Petitioner’s case cannot be distinguished from *Buenrostro*. The Petitioner is an alien present in the United States who entered the country unlawfully “without admission or inspection.” Ex. 1. As the Fifth Circuit held, an alien “present in the United States who has not been admitted,” is by definition “an applicant for admission” who is “seeking admission.” 8 U.S.C. § 1225(a)(1); § 1225(b)(2). Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that “the alien *shall* be detained” in the case of “an alien seeking admission” who “is not clearly and beyond a doubt entitled to be admitted”) (emphasis added). The *Buenrostro* decision is binding precedent and requires that the Court deny this habeas petition.⁴

III. Continued detention under 8 U.S.C. § 1225 does not violate the APA

A final agency action is required for APA review. 5 U.S.C. § 706. An action is “final” when it (1) “mark[s] the consummation of the agency’s decision-making process,” and (2) is one “from

⁴ The *Buenrostro* decision is a published decision and precedential authority even though the mandate has yet to issue. *See, e.g., Martin v. Singletary*, 965 F.2d 944, 945 n.1 (11th Cir. 1992) (explaining that even a stay in the issuance of a mandate does not impact the precedential value of published opinions); *Acute Care Ambul. Serv., L.L.C. v. Azar II*, No. 7:20-CV-00217, 2020 WL 7640206, at *13 (S.D. Tex. Dec. 3, 2020) (rejecting the argument that a Fifth Circuit decision is not controlling because “the mandate has yet to issue, and thus not properly relied upon as precedent.”).

which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (citation omitted). “Final agency action ‘is a term of art that does not include all [agency] conduct such as, for example, constructing a building, operating a program, or performing a contract,’ but instead refers to an ‘agency’s [final] determination of rights and obligations whether by rule, order, license, sanction, relief, or similar action.’” *Nat’l Veterans Legal Servs. Program v. United States DOD*, 990 F.3d 834, 839 (4th Cir. 2021) quoting *Vill. of Bald Head Island v. U.S. Army Corps of Eng’rs*, 714 F.3d 186, 193 (4th Cir. 2013) (citing *Bennett*, 520 U.S. at 177-78). A challenged action fails the first prong if it is “of a merely tentative or interlocutory nature” and does not express an agency’s “unequivocal position.” *Holistic Candles and Consumer’s Ass’n v. FDA*, 664 F.3d 940, 943 (D.C. Cir. 2012) (citations omitted). A non-final action contemplates further administrative consideration or modification prior to the agency’s adjudication of rights or imposition of obligations. *See id.* at 945.

Petitioner challenges his detention by ICE, which is not a final agency action that is reviewable by this Court under the APA. Instead, the challenge is squarely barred by 8 U.S.C. § 1252(g)—as the Supreme Court held in a remarkably similar case. In § 1252(g), Congress clearly provided that “no court” has jurisdiction over any cause or claim “arising from the decision or action ... to commence proceedings, “notwithstanding any other provision of law,” whether “statutory or nonstatutory,” including habeas, mandamus, or the All Writs Act. By its terms, this jurisdiction-stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well as review pursuant to the All Writs Act and APA) of claims arising from a decision or action to commence removal proceedings. *See Reno v. AADC*, 525 U.S. 471, 482 (1999). In short, the decision as to the method by which removal proceedings are commenced, which is the genesis of Petitioner’s detention, is a discretionary one that is not reviewable by a district court under §1252(g). *See id.* at 487.

Crucially, the Supreme Court has held that a prior version of § 1252(g) barred claims similar to those brought here. See *AADC*, 525 U.S. at 487-92. In a case in which aliens alleged that the “INS was selectively enforcing the immigration laws against them in violation of their First and Fifth Amendment rights,” *id.* at 473-74, and the government admitted “that the alleged First Amendment activity was the basis for selecting the individuals for adverse action,” *id.* at 488 n.10, the Supreme Court nonetheless held that the “challenge to the Attorney General’s decision to ‘commence proceedings’ against them falls squarely within § 1252(g),” *id.* at 487; see *Cooper Butt ex rel Q.T.R. v. Barr*, 954 F.3d 901, 908-09 (6th Cir. 2020). *AADC* confirms that an alien cannot avoid the reach of §1252(g) by alleging continued detention while executing a removal order in violation of his constitutional rights. See, e.g., *AADC*, 525 U.S. at 487-92; *Ragbir v. Homan*, 923 F.3d 53, 73 (2d Cir. 2019); *Zundel v. Gonzales*, 230 F. App’x 468, 475 (6th Cir. 2007); *Humphries v. Various Fed. U.S. INS Emps.*, 164 F.3d 936, 945 (5th Cir. 1999).

The APA simply offers no relief in this case. The INA provides that “[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action” to remove an alien are “available only in judicial review of a final order [of removal].” 8 U.S.C. § 1252(b)(9) (emphasis added). Thus, “the sole and exclusive means for judicial review of an order of removal” is a “petition for review filed with an appropriate court of appeals.” 8 U.S.C. §1252(a)(5), (b)(2).

CONCLUSION

For the reasons set forth herein, Petitioner’s petition for writ of habeas corpus should be denied, and Petitioner’s detention should remain undisturbed for the duration of his removal proceedings.

Respectfully submitted,

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