UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-60079-CIV-SINGHAL

JOSE DANIEL AZCONA-QUINTERO,

Petitioner,

vs.

CYNTHIA SWAIN, Warden of the Broward Transitional Center; GARRET J. RIPA, Area Field Office Director of ICE; and TODD M. LYONS, ICE Director,

Respondents.
_____/

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE is before the Court on Petitioner Jose Daniel Azcona-Quintero's Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (the "**Petition**"). (DE [1]). The Court has reviewed the Petition and understands that Petitioner is "not a recent entrant" to the United States, s*ee* (DE [1] at 6), but nevertheless has not been admitted, *see* (DE [1-2] at 1) (explaining Petitioner "is present without admission"). Petitioner argues that because he was neither "arriving" nor "seeking admission" when detained, the government improperly detains him under 8 U.S.C. § 1225 and that he must instead be detained under 8 U.S.C. § 1226. (DE [1] at 6). On this point, Petitioner argues that his detention violates **(1)** the Immigration and Nationality Act ("**INA**") and **(2)** the Fifth Amendment of the United States Constitution. (DE [1] at 6). Petitioner cites no legal authority, except *Maldonado Bautista v. Santacruz*, 5:25-cv-01873 (C.D. Cal. Dec. 18, 2025), for the proposition that he should not be required to appeal to the Board of Immigration Appeals before petitioning this Court for relief.

Section 2243 authorizes courts to deny legally insufficient petitions for habeas corpus without ordering responsive briefing. *See* 28 U.S.C. § 2243 ("A court . . . entertaining an application for a writ of habeas corpus shall forthwith award the writ or . . . direct[] the respondent to show cause why the writ should not be granted, ***unless*** it appears from the application that the applicant . . . is not entitled thereto."); *see also Borden v. Allen*, 646 F.3d 785, 810 (11th Cir. 2011) ("Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face . . . ." (quoting *McFarland v. Scott*, 512 U.S. 849, 856 (1994)).

This Court must reject both of Petitioner's arguments. Indeed, this Court recently held that aliens present in the United States without admission are "applicants for admission" and therefore subject to section 1225 regardless of when they physically entered the United States. *See Morales v. Noem*, 2026 WL 236307 (S.D. Fla. Jan 29, 2026) (Singhal, J.); *Arroyo v. Diaz*, 2026 WL 279656 (S.D. Fla. Feb. 2, 2026) (Singhal, J.); *see also Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330, at *4–9 (5th Cir. Feb. 6, 2026) (holding an alien's "[p]resence without admission deems [him an] . . . applicant[] for admission.").

Concerning Petitioner's Fifth Amendment argument, the Court assumes he invokes that Amendment's due process clause. While "[i]t is axiomatic that a party 'waives their claims by failing to brief them,'" the Court briefly addresses Petitioner's due process argument. *Brown v. Ramsay*, 785 F. Supp. 3d 1214, 1229 (S.D. Fla. 2025) (quoting *A.L. v. Jackson Cnty. Sch. Bd.*, 635 Fed. App'x 774, 787 (11th Cir. 2015)). While "'the Fifth Amendment entitles aliens to due process of law in deportation proceedings,' . . . detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*,

507 U.S. 292, 306 (1993)). Additionally, "when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal." *Id.* at 528.

While not on all fours, *Demore* is instructive. There, the Court held that the government may mandatorily detain criminal aliens pending removal in order to combat flight risk. *Id.* at 527–28 (rejecting argument that due process required individualized bond hearings for criminal aliens to assess flight risk). Moreover, it explained that because detention pending removal has an "obvious termination point," temporary detention pending removal proceedings does not offend due process. *Id.* at 529. While *Demore* was decided in the criminal context, nothing therein suggests that temporary detention of non-criminal aliens pending removal proceedings violates due process. If anything, it suggests the opposite. *See id.* at 530 ("We think it clear that detention, or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens would be valid" (quoting *Wing Wong v. United States*, 163 U.S. 228, 235 (1896)). The Court has discovered no binding precedent holding that detainees subject to section 1225's mandatory removal scheme—such as Petitioner—must be afforded bond hearings. Accordingly, it is hereby

ORDERED AND ADJUDGED that the Petition is **DENIED**. The Clerk of Court is directed to **CLOSE** this case, and any pending Motions are **DENIED as MOOT**.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 12th day of February 2026.

RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF