IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

MARIA ESTELA TETLA MARTINEZ,	)	
Petitioner,	)	
v.	)	CASE NO. 1:26-cv-00045-BL
SCOTT BYRD, Sheriff, Coffee County Detention Center; *et al.*,	)	
Respondents.	)	

THE UNITED STATES' OPPOSITION TO THE PETITIONER'S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

Comes now Respondents Melissa Harper, Todd Lyons, and Kristi Noem (collectively, the "United States"), by and through Kevin P. Davidson, Acting United States Attorney, and respectfully submits this opposition to the *Petitioner's Emergency Motion for a Temporary Restraining Order and/or Preliminary Injunction* (the "Motion"). Doc. 2.

The Motion and Memorandum contain copious citations to legal authority but are almost silent as to how the law applies to the petitioner, Maria Martinez. Indeed, Ms. Martinez's name does not appears exactly once in the Motion and is completely absent from the Memorandum. All references to the Petitioner in the Memorandum lack detailed information concerning Ms. Martinez's situation. Many of the allegations in the Motion are factually incorrect. Most notably, the United

States is not treating Ms. Martinez as an "arriving alien" and is not proceeding under § 1226.

Instead, the Motion appears to be asking the Court to stop the United States from applying its normal removal procedures without showing how these procedures are inadequate or specifically violate Ms. Martinez's rights. This case is not about the immigration system. It is about one woman.

Ms. Martinez is a Mexican citizen who entered the country illegally over twenty years ago. She does not have a visa or other document giving her the right to remain in the United States. The United States recently discovered her presence and administrative removal proceedings have begun. As part of that process, the United States is attempting to move Ms. Martinez to Louisiana for the bond hearing to begin this process. The only thing standing between Ms. Martinez and the process she complains she is being deprived of is this dilatory proceeding.

The sparse facts contained in these pleadings show that Ms. Martinez is not entitled to the extraordinary relief she seeks. She cannot show a likelihood of success on the merits. She will not suffer irreparable harm. There is an adequate remedy available at law.

More fundamentally, the Court lacks jurisdiction over this proceeding for two reasons. First, habeas proceedings may only be brought against the Petitioner's immediate custodian. This jurisdiction is established at the time of filing and cannot be created or destroyed through future transfers. It is undisputed that at the time the case was filed, Ms. Martinez was not in ICE custody. While Immigration

and Customs Enforcement ("ICE") now has custody over Ms. Martinez, Ms. Martinez is no longer in the Middle District of Alabama. She is in the Northern District of Alabama on her way to Louisiana to begin removal proceedings. The Court should dismiss this action without prejudice for want of jurisdiction and allow Ms. Martinez to seek relief in an appropriate jurisdiction.

Second, Congress has stripped federal courts of jurisdiction to hear these sorts of claims. For these reasons, the Court should dismiss the Petition, deny the Motion, and allow the administrative process to run its course.

FACTS

I. FACTS RELATED TO THIS CASE

On information and belief, Ms. Martinez is a natural-born citizen of Mexico. Ex. 1 Decl. of Francisco J. Ayala ¶ 3. Ms. Martinez claims to have entered the country in February 2002. Motion at 2. Ms. Martinez was not admitted or paroled into the United States by an immigration officer. Ex. 1 Decl. of Francisco J. Ayala ¶ 5.[1] Ms. Martinez has no legal status here.

Ms. Martinez was arrested on October 25, 2025, and charged with third degree domestic violence. Doc. 9-1. These charges were still pending at the time the Motion was filed. *See* Motion at 2. The domestic violence charges were dismissed on January 22, 2026. Doc. 9-1.

When Ms. Martinez was detained, ICE's Enforcement and Removal Operations division ("ERO") determined that Ms. Martinez was present in the

[1] The United States respectfully requests that the Court accept this Declaration in lieu of live testimony and reconsider its order requiring an ICE agent to appear at the hearing.

United States in violation of the Immigration and Nationality Act ("INA"). Ex. 1 Decl. of Francisco J. Ayala ¶ 3. It issued a detained. Ex. 1 Decl. of Francisco J. Ayala ¶ 3.

Ms. Martinez was arrested following her release from the Coffee County Jail on January 24, 2026. Ex. 1 Decl. of Francisco J. Ayala ¶ 4. She was taken to Montgomery for processing and transported to the Pickens County Jail where she remains in ICE custody. Ex. 1 Decl. of Francisco J. Ayala ¶ 4.

Ms. Martinez was charged as being subject to removal pursuant to §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the INA. Ex. 1 Decl. of Francisco J. Ayala ¶ 7. Section 212(a)(6)(A)(i) states that any "alien present in the United States without being admitted or paroled, or who arrives in the United States at any time other than as designated by the Attorney General is inadmissible." 8 U.S.C. § 1182(a)(6)(A)(i). Section 212(a)(7)(A)(i)(I) makes inadmissible immigrants who are found without possession of valid visas or other documents which gives them the right to enter and remain in the United States. 8 U.S.C. § 1182(a)(7)(A)(i)(I).

On January 24, 2026, Ms. Martinez was served with a Notice to Appear which requires her to appear before an immigration judge in Basile, Louisiana on February 5, 2026.

II. THE INA'S INSPECTION AND DETENTION FRAMEWORK

A. Definition of an Applicant for Admission.

"To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering." *Jennings*

v. Rodriguez, 583 U.S. at 286. 8 U.S.C. § 1225 governs inspection, the initial step in this process, id., stating that all alien "applicants for admission . . . shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3). The statute—in a provision entitled "ALIENS TREATED AS APPLICANTS FOR ADMISSION"—dictates who "shall be deemed for purposes of this chapter an applicant for admission," defining that term to encompass both an alien "present in the United States who has not been admitted or [one] who arrives in the United States . . .". Id. § 1225(a)(1) (emphasis added). The "or" in this statute is disjunctive and indicates that these are two different types of aliens both of which are considered an applicant for admission: (1) present and not admitted, or (2) arriving in the U.S.

Likewise, INA § 212(a)(6)(A)(i), codified at 8 USC § 1182(a)(6)(A)(i), entitled "Illegal entrants and immigration violators" declares that an "alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General" is inadmissible. (emphasis added). Accordingly, under the INA, there are two types of applicants for admission, 8 U.S.C. § 1225(a)(1), and two types of "illegal entrants" who are inadmissible, 8 U.S.C. § 1182(a)(6)(A)(i). These defining statutes are terms of art and are not mutually exclusive. An alien can be an applicant for admission who is not an inadmissible illegal entrant by arriving at a designated port of entry and presenting for inspection. Conversely, an alien can be an applicant for admission who is also an inadmissible illegal entrant in one of two ways: (1) by arriving in the United States at a time and place other than a designated port of

entry, or (2) by being present in the United States without being admitted or paroled. See 8 U.S.C. §§ 1225(a)(1) and 1182(a)(6)(A)(i).

B. Inspection Procedures

Paragraph (b) of § 1225 governs the inspection procedures applicable to all applicants for admission. They "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings*, 583 U.S. at 287. § 1225(b)(1) applies to those "arriving in the United States" and "certain other" aliens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.* § 1225(b)(1)(A)(i), (iii). The "certain other aliens" referred to are addressed in § 1225(b)(1)(A)(iii), which gives the Attorney General sole discretion to apply § 1225(b)(1)'s expedited removal to an alien who "has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility," subject to an exception inapplicable here. The statute therefore explicitly confirms application of its inspection procedures for those already in the country, including for a period of multiple years.

Applicants for admission falling under the specifications of subsection (b)(1) are generally subject to expedited removal "without further hearing or review." *See* id. § 1225(b)(1)(A)(i). That includes those applicants for admission who cannot show that they have been present in the United States for at least two years prior to the determination of inadmissibility. Importantly, the two-year physical presence

requirement does not excuse an applicant from mandatory detention under § 1225, as will be explained below, but only determines whether the applicant will be subject to expedited removal under § 1225(b)(1) if they have not been present in the United States for more than two years, or subject to standard removal proceedings under § 1229a if they have been present (albeit not admitted or paroled) for more than two years. Additionally, where the applicant "indicates an intention to apply for asylum . . . or a fear of persecution," immigration officers will refer him or her for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An applicant "with a credible fear of persecution" is "detained for further consideration of the application for asylum." *Id.* § 1225(b)(1)(B)(ii). If the applicant does not indicate an intent to apply for asylum, express a fear of persecution, or is "found not to have such a fear," he or she is subject to mandatory detention until removal from the United States. *Id.* §§ 1225(b)(1)(A)(i) and (B)(iii)(IV) (stating that the alien "shall be detained"). An applicant for admission is further subject to mandatory detention while undergoing the § 1225(b)(1)(B) asylum procedures until a final determination is made. *Id.*

Section 1225(b)(2) is "broader" than (b)(1), serving as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1). *Jennings*, 583 U.S. at 287. Subject to exceptions not applicable here, "if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding under § 1229a." 8 U.S.C. § 1225(b)(2)(A); *see also Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) ("for aliens. . .seeking admission into the United States

who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'") (citing *Jennings*, 583 U.S. at 299). The key distinction between sections (b)(1) and (b)(2) of 1225 is that only section (b)(1) provides for expedited removal, while section (b)(2) provides for standard removal proceedings under § 1229a. However, both sections require mandatory detention pending conclusion of the inspection process, whether it is by expedited removal or the conclusion of § 1229a removal proceedings.

While an applicant is subject to the mandatory detention provisions of § 1225(b), DHS retains sole discretionary authority to temporarily release on parole "any alien applying for admission" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022). However, the INA remains very clear that even "such parole of such alien shall not be regarded as an admission of the alien" and when the purpose of parole, in the discretion of DHS, has been served, the alien should be returned to custody and treated as any other applicant for admission. *Id.*

C. Apprehension and Detention under INA Section 236, 8 U.S.C. § 1226.

8 U.S.C. § 1226 applies to "aliens", which means any person who is not a citizen or national of the United States. 8 U.S.C. §1101(a)(3). "Even once inside the United States, aliens do not have an absolute right to remain here. For example, an alien present in the country may still be removed if he or she falls 'within one or

more... classes of deportable aliens.' §1227(a)." *Jennings*, 583 U.S. at 288 (citing 8 U.S.C. § 1227(a), which outlines "classes of deportable aliens" among those already "in and admitted to the United States") (emphasis added)). "Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal." *Id.* Applicable "[o]n a warrant issued by the Attorney General," it provides that an alien may be arrested and detained pending a decision" on the removal. 8 U.S.C. § 1226(a). For aliens arrested under § 1226(a), the Attorney General and the DHS have broad discretionary authority to detain an alien during removal proceedings.[2] See 8 U.S.C. § 1226(a)(1) (DHS "may continue to detain the arrested" alien during the pendency of removal proceedings).

Following apprehension under § 1226(a), a DHS officer makes an initial discretionary determination concerning release. See 8 C.F.R. § 236.1(c)(8). DHS "may continue to detain the alien." 8 U.S.C. § 1226(a)(1). "To secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999)). If DHS decides to release, it may set a bond or condition the release. See 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8).

[2] Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General's authority—delegated to immigration judges, see 8 C.F.R. § 1003.19(d)—to detain, or authorize bond for aliens under section 1226(a) is "one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings." Matter of D-J-, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

If, following apprehension under § 1226(a), DHS determines that an alien should remain detained during the pendency of his or her removal proceedings, the alien may request a bond hearing before an immigration judge. See 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The immigration judge then conducts a bond hearing and decides whether release is warranted, based on a variety of factors that account for ties to the United States and risks of flight or danger to the community. *See In re Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (identifying nine non-exhaustive factors); 8 C.F.R. § 1003.19(d) ("The determination . . . as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].").

§ 1226(a) does not grant "any right to release on bond." *Matter of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson*, 342 U.S. at 534). Nor does it address the applicable burden of proof or particular factors that must be considered. See generally 8 U.S.C. § 1226(a). Rather, it grants DHS and the Attorney General broad discretionary authority to determine, after arrest pursuant to § 1226(a), whether to detain or release an alien during his or her removal proceedings. See id. If, after the bond hearing, either party disagrees with the decision of the immigration judge, that party may appeal that decision to the BIA. See 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3). Moreover, § 1226(c) specifies a class of aliens who cannot be released and shall be detained in custody during the pendency of removal proceedings (i.e. the determination of whether the alien is to be removed from the

United States), encompassing aliens who have committed certain criminal acts or acts of terror.[3]

D. Review of Custody Determinations at the BIA.

The BIA is an appellate body within the Executive Office for Immigration Review (EOIR). See 8 C.F.R. § 1003.1(d)(1). Members of the BIA possess delegated authority from the Attorney General. 8 C.F.R. § 1003.1(a)(1). The BIA is "charged with the review of those administrative adjudications under the [INA] that the Attorney General may by regulation assign to it," including Immigration Judge custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1; 1236.1. The BIA not only resolves particular disputes before it, but also "through precedent decisions, [it] shall provide clear and uniform guidance to DHS, the immigration judges, and the general public on the proper interpretation and administration of the [INA] and its implementing regulations." Id. § 1003.1(d)(1).

STANDARD OF REVIEW

A TRO or preliminary injunction is an "extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). The

[3] The Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), amended § 1226 to add subsection (c).However, the Laken Riley Act's addition of § 1226(c) does not invalidate § 1225(b)'s mandatory detention requirement merely because it could appear redundant. As the Supreme Court has acknowledged, "redundancies are common in statutory drafting ... redundance in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute..." *Barton v. Barr*, 590 U.S. 222, 229 (2020). Even Justice Scalia acknowledged in Reading Law, that "Sometimes drafters do repeat themselves and do include words that add nothing of substance, either out of a flawed sense of style or to engage in the ill-conceived but lamentably common belt-and-suspenders approach." Importantly, the statutes at issue were "implemented at different times and intended to address different issues. The INA is a complex set of legal provisions created at different times and modified over a series of years. Where these provisions impact one another, they cannot be read in a vacuum." *Matter of Hurtado*, 29 I&N Dec. 216, *227 (BIA 2025).

standards of review for preliminary injunctions and temporary restraining orders are the same. *Butler v. Alabama Jud. Inquiry Comm'n*, 111 F. Supp. 2d 1224, 1229 (M.D. Ala. 2000). A party seeking a temporary restraining order must establish

> (1) there is a substantial likelihood that the moving party will prevail on the merits;
>
> (2) the moving party will suffer irreparable injury if the injunction is not granted;
>
> (3) the threatened injury to the moving party outweighs the threatened harm the proposed injunction may cause the opposing party; and
>
> (4) the injunction, if issued, would not be adverse to the public interest.

Id.

Further:

> The first element is generally regarded as the most important because the granting of a temporary restraining order would be inequitable if the movant has no chance of succeeding on the merits of the case. The last three elements essentially require the court to balance the equities of the matter in dispute in order to choose the course of action that will minimize the costs of being mistaken. Ultimately, the decision to grant or deny a temporary restraining order is within the sound discretion of the district court.

Id. at 1229–30.

Because these requests represent "extraordinary relief . . . a plaintiff seeking a preliminary injunction must establish he is entitled to that extraordinary relief, including making the merits showing required to obtain a preliminary injunction. That showing is significantly higher than what is required to survive a motion for summary judgment." *Amiri v. Bd. of Trs. of Univ. of Alabama*, No. 7:18-CV-00425-RDP, 2019 WL 3322555, at *2 (N.D. Ala. July 24, 2019).

ARGUMENT

The Motion should be denied for two reasons. First, the Petition should be dismissed for lack of jurisdiction because at the time of filing, Ms. Martinez was not in ICE custody. A writ of habeas corpus may only be brought against a petitioner's immediate custodian at the time of filing. The existence of an ICE detainer does not establish ICE custody over Ms. Martinez. Thus, the Court lacked jurisdiction over this case from the beginning. Ms. Martinez is now in ICE custody but is outside of the Middle District of Alabama. The Petition (Doc. 1) and all collateral relief should be dismissed without prejudice to allow Ms. Martinez to seek any appropriate relief in the district where she is held at the time of filing. Further, the Court lacks jurisdiction because Congress stripped the federal courts of jurisdiction to hear these sorts of claims.

Second, the Motion should be denied because Ms. Martinez has not shown her entitlement to extraordinary relief. Ms. Martinez's claims are based on faulty premises. She claims that she is being treated as an arriving alien and that the United States is proceeding under § 1226 of the Immigration and Naturalization Act. Ms. Martinez doubtless made these errors in haste because at the time of filing, the United States had not arrested and charged Ms. Martinez.

Further, Ms. Martinez's briefing lacks any individualized showing that Ms. Martinez is entitled to extraordinary, preliminary relief. Instead, Ms. Martinez focuses on broad allegations of governmental malfeasance and irreparable harm. In short, she has failed to meet her burden of proof.

I. THE PETITION SHOULD BE DISMISSED WITHOUT PREJUDICE FOR LACK OF JURISDICTION.

A. THE COURT LACKS JURISDICTION BECAUSE ICE WAS NOT MS. MARTINEZ'S IMMEDIATE CUSTODIAN AT THE TIME THE PETITION WAS FILED.

The Petition (Doc. 1) should be dismissed without prejudice and all collateral relief denied because the Court has no jurisdiction over this matter. "Federal courts are courts of limited jurisdiction. As such, federal courts only have the power to hear cases that they have been authorized to hear by the Constitution or the Congress of the United States." *Williams v. CNH Am., LLC*, 542 F. Supp. 2d 1261, 1263 (M.D. Ala. 2008) (internal citations omitted). "Any time doubt arises as to the existence of federal jurisdiction," the Court must "address the issue before proceeding further." *Atlanta Gas Light Co. v. Aetna Cas. & Sur. Co.*, 68 F.3d 409, 414 (11th Cir. 1995). "Unless and until jurisdiction is found, both appellate and trial courts should eschew substantive adjudication." *Belleri v. United States,* 712 F.3d 543, 547 (11th Cir. 2013).

"The writ of habeas corpus is limited to challenges to the fact of confinement, where a petitioner seeks immediate or speedier release. See *Prieser v. Rodriguez*, 411 U.S. 475, 485-86 (1973); *Wolff v. McDonnell*, 418 U.S. 539, 578 (1974). The proper respondent in a habeas action is the petitioner's "immediate custodian" at the time the petition is filed. *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004); *see also Patel v. U.S. Atty. Gen.*, 334 F.3d 1259, 1263 (11th Cir. 2003) ("'Custody' is determined as of the time of the filing of the petition."). Thus, "[j]urisdiction over a § 2241 petition is determined ***at the time of filing of the petition***." *Hooker v.*

Sivley, 187 F.3d 680, 682 (5th Cir. 1999)) (emphasis added). Post-filing events cannot provide jurisdiction if it was lacking when the petition was filed. *Cf. Microsoft Corp. v. DataTern, Inc.*, 755 F.3d 899, 906 (Fed. Cir. 2014) ("[P]ost-complaint facts cannot create jurisdiction where none existed at the time of filing.").

Courts have routinely held that ICE's "filing of [a] detainer, standing alone,[however[did not cause [her] to come within the custody of," the United States immigration agency. *Louis v. Sec'y, Fla. Dept. of Corrs.*, 524 F. App'x 583, 584 (11th Cir. 2013) (internal quotation marks, alterations, and citation omitted); *Orozco v. United States INS*, 911 F.2d 539, 541 (11th Cir. 2013); *see also Figueras v. Johns*, Case No. 17-cv-12, 2017 WL 4227393 (S.D. Ga. Sept. 20, 2017) ("The Eleventh Circuit has held that the filing of a detainer, standing alone, does not cause a prisoner to come within the custody of the Department of Homeland Security or ICE."). Thus, the mere existence of an immigration detainer may not be challenged through a habeas petition. *Yong Cha Lee v. Bradley*, No. 719CV01306CLMSGC, 2019 WL 7597247, at *1 (N.D. Ala. Nov. 20, 2019). For a court to have jurisdiction over an immigration-related habeas claim, the petitioner must be in the "custody" of the immigration agency. *Kumarasamy v. Att'y Gen. of United States*, 453 F.3d 169, 172 (3d Cir. 2006); *see also Kaba v. Unknown*, No. CV425-032, 2025 WL 1287770, at *3 (S.D. Ga. Apr. 16, 2025), *report and recommendation adopted,* No. 4:25-CV-32, 2025 WL 1285665 (S.D. Ga. May 2, 2025). Courts have regularly dismissed habeas petitions for lack of jurisdiction when they are filed against ICE on the basis of a detainer while the petitioner is not

yet in ICE custody. See, e.g.., *Lois v. Bondi*, Case No. 25-2139, 2025 WL 2845619 (E.D. NC, Oct. 6, 2025); *See also Bernabe-Reynoso v. United States*, Case No. 24-cv-1002, 2024 WL 1588334 (D.S.D. March 8, 2024) ("["Petitioner] may not challenge his detainer via habeas corpus until he is released from his present term of confinement and placed in ICE custody.").

Ms. Martinez admits that when she filed her habeas petition on January 21, 2026, she was not in ICE custody. Motion at 1–2. Instead, she was being held by Coffee County before a hearing on then-pending state criminal charges. *Id.* While she was there, ICE placed a detainer on her. ICE arrested her on January 24, 2026, when she was released by Coffee County. She is currently in ICE custody being held in Pickens County, Alabama. She will be transferred to Louisiana for her administrative immigration proceedings after Thursday's hearing.

Under this set of undisputed facts, the Court lacks jurisdiction over Ms. Martinez's petition against ICE because she was not in ICE custody at the time the petition was filed. The only potentially proper respondents to this action at the time of filing were the state officers who held her in custody in Coffee County. While Ms. Martinez originally named the Sheriff of Coffee County as a respondent, she has since dismissed, him.

Since Ms. Martinez was not taken into ICE custody until January 24, 2026, several days after this Petition was filed, it follows that she filed her petition against ICE prematurely and this court lacks jurisdiction. *See Gomez-Cruz v. Bradley*, No. 19-cv-1069, 2020 WL 4680277, (N.D. Ala. July 21, 2020) ("Until she is

in ICE custody, this court lacks subject matter jurisdiction to review the immigration detainer under section 2241.").

While ICE now has custody of Ms. Martinez, the case may not be refiled in the Middle District of Alabama. Ms. Martinez is now located in Pickens County, Alabama. *See generally* Doc. 11. She will be moved to Louisiana after Thursday's hearing to commence her administrative removal proceedings. Neither Pickens County nor Louisiana are located within this district. As a result, this Court should dismiss the Petition without prejudice with leave to refile in a jurisdiction where Ms. Martinez is currently held.

B. 1252 8 U.S.C. § 1252(g) bars judicial review of DHS's decision to commence removal proceedings against Petitioner

"Federal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). By its plain terms, 8 U.S.C. § 1252(g) eliminates district court jurisdiction over challenges to commencing removal proceedings. Petitioner seeks to challenge the government's decisions to charge her with removability and detain her, which arise "from the decision [and] action" to "commence proceedings." 8 U.S.C. § 1252(g). Regardless of the framing of his claims, this Court does not have jurisdiction over such challenges.

Section 1252(g), as amended by the REAL ID Act, specifically deprives courts of jurisdiction, including habeas corpus jurisdiction, to review "any cause or claim by or on behalf of an alien arising from the decision or action by [the Secretary of Homeland Security] to [1] commence proceedings, [2] adjudicate cases, or [3] execute removal orders against any alien under this chapter." Id. Section 1252(g)

eliminates jurisdiction "[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title." Though this section "does not sweep broadly," *Tazu v. Att'y Gen. United States*, 975 F.3d 292, 296 (3d Cir. 2020), its "narrow sweep is firm," *E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021). Except as provided in § 1252, courts "cannot entertain challenges to the enumerated executive branch decisions or actions." *Id.*

Section 1252(g) is "directed against a particular evil: attempts to impose judicial constraints upon [certain categories of] prosecutorial discretion." *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 485 n.9 (1999) ("AADC"). Indeed, Section 1252(g) was designed to protect the Executive's discretion and avoid the "deconstruction, fragmentation, and hence prolongation of removal proceedings." *Id.* at 487; *see, e.g., Rauda v. Jennings*, 55 F.4th 773, 777-78 (9th Cir. 2022) ("Limiting federal jurisdiction in this way is understandable because Congress wanted to streamline immigration proceedings by limiting judicial review to final orders, litigated in the context of petitions for review."). Section 1252(g)'s language protects the government's authority to make "discretionary determinations" over whether and when to commence removal proceedings against an alien, "providing that if they are reviewable at all, they at least will not be made the bases for separate rounds of judicial intervention outside the streamlined process that Congress has designed." AADC, 525 U.S. at 485.

Section 1252(g) prohibits district courts from hearing challenges to decisions and actions about whether and when to commence removal proceedings. *See, e.g., Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002) ("We construe § 1252(g) . . . to include not only a decision in an individual case whether to commence, but also when to commence, a proceeding."); *see also, e.g., Sissoko v. Rocha*, 509 F.3d 947, 950-51 (9th Cir. 2007) (holding that § 1252(g) barred review of a Fourth Amendment false arrest claim that "directly challenge[d] [the] decision to commence expedited removal proceedings.").

The scope of § 1252(g) also bars district courts from hearing challenges to the method by which DHS chooses to commence removal proceedings. *See, e.g., Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and also to review "ICE's decision to take him into custody and to detain him during removal proceedings"); *Saadulloev v. Garland*, No. 3:23-cv-106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) ("The Government's decision to arrest [petitioner], clearly is a decision to 'commence proceedings' that squarely falls within the jurisdictional bar of § 1252(g)."). The act of arresting an alien to serve a charging document and initiate removal proceedings is an "action . . . to commence proceedings" that this Court lacks jurisdiction to review. *See, e.g., id.; Tazu*, 975 F.3d at 298-99 ("Tazu also challenges the Government's re-detaining him for prompt removal. . . . While this claim does not challenge the Attorney General's decision to execute his removal

order, it does attack the action taken to execute that order. So, under § 1252(g) and (b)(9), the District Court lacked jurisdiction to review it.").

As Section 1252(g) prohibits judicial review of "any cause or claim" that arises from the commencement of removal proceedings, this provision applies to constitutional as well as statutory claims. *See, e.g., Tazu*, 975 F.3d at 296-98 (holding that any constitutional claims must be brought in a petition for review, not a separate district court action); *Elgharib v. Napolitano*, 600 F.3d 597, 602–04 (6th Cir. 2010) (noting that "a natural reading of 'any other provision of law (statutory or nonstatutory)' includes the U.S. Constitution" and finding additional support for the court's interpretation from the remainder of the statute). Indeed, the Second Circuit explained, "[w]hile the statute creates an exception for 'constitutional claims or questions of law,' jurisdiction to review such claims is vested exclusively in the courts of appeals and can be exercised only after the alien has exhausted administrative remedies." *Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) (internal citations omitted); *see also id.* ("Accordingly, the district court lacked jurisdiction to review Ajlani's constitutional challenges to his removal proceedings, and it would be premature for this court to do so now."); 8 U.S.C. § 1252(a)(2)(D).

Under the INA, any challenges to the decisions made during the removal proceedings would not be brought to a United States District Court. Instead, in 8 U.S.C. § 1252, Congress channeled into the statutorily prescribed removal process all legal and factual questions—including constitutional issues—that may arise from the removal of an alien, with judicial review of those decisions vested

exclusively in the courts of appeals. *See AADC*, 525 at 483. District courts play no role in that process. Consequently, this Court lacks jurisdiction over Petitioner's claims, which are all, at bottom, challenges to removal proceedings. Petitioner must first raise his challenges through the administrative removal proceedings, and then, if necessary, in the appropriate court of appeals.

To start, 8 U.S.C. § 1252(b)(9) eliminates this Court's jurisdiction over Petitioner's claims by channeling all challenges to immigration proceedings (and removal orders) to the courts of appeals:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction . . . by any . . . provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9) (emphasis added). Section 1252(b)(9) is an "unmistakable 'zipper' clause" that "channels judicial review of all [claims arising from deportation proceedings]" to a court of appeals in the first instance. *AADC*, 525 U.S. at 483. As the Second Circuit explained, § 1252(b)(9) requires claims like Petitioner's to be consolidated in one proceeding before the Court of Appeals:

> Congress enacted [8 U.S.C. § 1252(b)(9)] for the important purpose of consolidating all claims that may be brought in removal proceedings into one final petition for review of a final order in the court of appeals. . . . Before [8 U.S.C. § 1252(b)(9)], only actions attacking the deportation order itself were brought in a petition for review while other challenges could be brought pursuant to a federal court's federal question subject matter jurisdiction under 28 U.S.C. § 1331. Now, by establishing "exclusive appellate court" jurisdiction over claims "arising from any action taken or proceeding brought to remove an alien," all challenges are channeled into one petition.

Calcano-Martinez v. INS, 232 F.3d 328, 340 (2d Cir. 2000). By law, "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," that is, "the court of appeals for the judicial circuit in which the immigration judge completed the proceedings." 8 U.S.C. §§ 1252(a)(5), (b)(2).

Moreover, Section 1252(a)(5) reiterates that a petition for review is the exclusive means for judicial review of immigration proceedings:

> Notwithstanding any other provision of law (statutory or nonstatutory), . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter, except as provided in subsection (e) [concerning aliens not admitted to the United States].

8 U.S.C. § 1252(a)(5). "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any issue—whether legal or factual—arising from any removal-related activity can be reviewed only through the [petition-for-review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016); *see id.* at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they 'arise from' removal proceedings"); *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only when the action is "unrelated to any removal action or proceeding" is it within the district court's jurisdiction); *cf. Xiao Ji Chen v. U.S. Dep't of Justice*, 434 F.3d 144, 151 n.3 (2d Cir. 2006) (a "primary effect" of the REAL ID Act is to "limit all aliens to one bite of the apple" (internal quotation marks omitted)).

Critically, "[§] 1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that "[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." *See also Ajlani*, 545 F.3d at 235 ("jurisdiction to review such claims is vested exclusively in the courts of appeals"). The petition-for-review process before the court of appeals thus ensures that aliens have a proper forum for claims arising from their immigration proceedings and "receive their 'day in court.'" *J.E.F.M.*, 837 F.3d at 1031-32; *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("The REAL ID Act of 2005 amended the [INA] to obviate . . . Suspension Clause concerns" by permitting judicial review of "nondiscretionary" BIA determinations and "all constitutional claims or questions of law.").

In evaluating the reach of subsections (a)(5) and (b)(9), an appellate court has explained that "whether the district court has jurisdiction will turn on the substance of the relief that a plaintiff is seeking." *Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011). Those provisions divest district courts of jurisdiction to review both direct and indirect challenges to removal orders, which includes any challenge that is inextricably intertwined with the final order of removal that precedes issuance of any removal order, *id.*, as well as decisions to detain for purposes of removal or for proceedings, *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018) (§

1252(b)(9) includes challenges to "decision to detain [alien] in the first place or to seek removal," which precedes any issuance of an NTA).

Here, Ms. Martinez's claims challenge the government's ability to detain her under §1225 during the pendency of her removal proceedings, which arises from the government's efforts to remove her. Thus, this Court should dismiss Ms. Martinez's claims for lack of jurisdiction; she must present his challenges in the administrative removal process, and then, if necessary, to the appropriate court of appeals. In short, the Court should require Ms. Martinez to exhaust the administrative remedies available to her before allowing her to rush to Court to seek relief.

II. MS. MARTINEZ HAS NOT MET HER BURDEN OF SHOWING HER ENTITLEMENT TO A TRO OR PRELIMINARY INJUNCTION.

A. MS. MARTINEZ HAS FAILED TO ESTABLISH A LIKELIHOOD OF SUCCESS ON THE MERITS.

To succeed on a motion for extraordinary preliminary relief, a petitioner must show a likelihood of success on the merits. *Butler v. Alabama Jud. Inquiry Comm'n*, 111 F. Supp. 2d 1224, 1229 (M.D. Ala. 2000). In her Motion and Memorandum, Ms. Martinez makes copious legal argument but fails to show how any of these alleged bad actions apply to Ms. Martinez individually. *See generally* Motion; *see also* Memorandum (Doc. 2–1) at 7–10.

1. Ms. Martinez has not shown that her detention was the result of *ultra vires* acts

Ms. Martinez cites to a July 2025 memo as proof that ICE is taking *ultra vires* actions. Memorandum at 7. It is unclear from the record whether this July

2025 memo is being used against Ms. Martinez. Indeed, it is unclear whether ICE is still using the July 2025 memo at all as Ms. Martinez admits it was vacated by a class action. *See* Doc. 12. Simply put, there is insufficient evidence that ICE has taken any *ultra vires* action that prejudices Ms. Martinez.

2. Ms. Martinez has not shown that her detention violates her substantive due process rights.

Ms. Martinez argues that her detention without a bond hearing violated her substantive due process rights under the Fifth Amendment. Memorandum at 8. She alleges (without citation) that dozens of district courts nationwide support her argument. *Id.* This argument is supported on the faulty premise that Ms. Martinez was detained by ICE at the time the Motion was filed. She was not held by ICE but Coffee County, Alabama.

Further, this argument runs contrary to law. As mentioned above, Congress broadly crafted "applicants for admission" to include undocumented aliens present within the United States like Petitioner. See 8 U.S.C. § 1225(a)(1). And Congress directed that aliens like Petitioner shall be detained during their removal proceedings. U.S.C. § 1225(b)(2)(A); Jennings, 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded."). In so doing, Congress made a legislative judgment to detain undocumented aliens during removal proceedings, as they—by definition—have crossed borders and traveled in violation of United States

law. That is the prerogative of the legislative branch serving the interest of the government and the United States.

The Supreme Court has recognized this profound interest. See Shaughnessy v. United States, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control."). And with this power to remove aliens, the Supreme Court has recognized the United States' longtime Constitutional ability to detain those in removal proceedings. Carlson v. Landon, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure."); Wong Wing v. United States, 163 U.S. 228, 235 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation."); Demore v. Kim, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); Jennings v. Rodriguez, 583 U.S. 281, 286 (2018) ("Congress has authorized immigration officials to detain some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives immigration officials time to determine an alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

In another immigration context (aliens already ordered removed and awaiting their removal), the Supreme Court has explained that detaining these

aliens less than six months is presumed constitutional. See Zadvydas v. Davis, 533 U.S. 678, 701 (2001). But even this presumptive constitutional limit has been subsequently distinguished as unnecessarily restrictive in other contexts, such as during the pendency of removal proceedings under § 1225(b) and § 1226(c). This was an express holding of Jennings, stating "In Parts III-A and III-B [of the opinion], we hold that, subject only to express exceptions, §§ 1225(b) and 1226(c) authorize detention until the end of applicable proceedings." Jennings, at 296-97. The Supreme Court in Jennings explained in detail why the Zadvydas opinion does not provide authority to graft a time limit onto the text of § 1225(b) (as opposed to § 1231(a)(6), which authorizes the detention of aliens who have already been removed from the country), noting that § 1225(b) uses the word "shall" instead of "may", specifies a clear time frame for detention during the pendency of proceedings, and provides an express exception to detention, which signals that there are no other circumstances under which a § 1225 detainee may be released. Id. at 298-300.

Further, in Demore, the Supreme Court explained Congress was justified in detaining aliens during the entire course of their removal proceedings. 538 U.S. at 513. In that case, similar to undocumented aliens like Petitioner, Congress provided for the detention of certain convicted aliens during their removal in 8 U.S.C. § 1226(c). See id. The Court emphasized the constitutionality of the "definite termination point" of the detention, which was the length of the removal proceedings. *Id.* at 512. Considering Congress's interest in dealing with illegal

immigration by keeping aliens in detention pending the removal period, the Supreme Court dispensed of any due process concerns. *See id. generally*.

3. Ms. Martinez has not shown that ICE's actions violated the APA.

Ms. Martinez argues without authority that ICE's actions violate the APA. Memorandum at 8–9. It is unclear which regulations Ms. Martinez is referencing or how ICE violated them with respect to her case. "A party's failure to cite legal authority in support of its position suggests either that there is no authority to sustain its position or that it expects the court to do its research. When a litigant raises an argument only generally and fails to support the argument with legal authority, a court may summarily reject the argument." *Dennis N. v. Bisignano*, No. 2:24-CV-828-RAH--KFP, 2025 WL 2304643, at *3 (M.D. Ala. July 22, 2025) (cleaned up), *report and recommendation adopted sub nom. Newton v. Bisignano*, No. 2:24-CV-00828-RAH, 2025 WL 2294903 (M.D. Ala. Aug. 8, 2025).

4. Ms. Martinez has not shown that ICE has violated the *Accardi* Doctrine.

Relatedly, Ms. Martinez argues that the Respondents violated the *Accardi* doctrine without providing an explanation of what this doctrine is or how it was violated in this case. Memorandum at 9. Further, Ms. Martinez bases this section on the faulty premise that she has been treated as an "arriving alien" or is being held pursuant to § 1226. This is factually incorrect. Again, Ms. Martinez claims (without citation) that dozens of cases support her position. Memorandum at 9–10. This is insufficient to support a claim for extraordinary relief.

5. Ms. Martinez Cannot Meet Her Burden of Proof Because She Was Properly Detained.

Not only has Ms. Martinez failed to meet her burden of proof, as shown below, she cannot do so. Ms. Martinez was properly detained under § 1225(b)(2) because she unambiguously meets every element in the text of the statute and, even if the text were ambiguous, the structure and history of the statute support Respondents' interpretation. The applicable detention statute, 8 U.S.C. § 1225(b)(2)(A), is unambiguous. Including its definitions, this statute is only three sentences long. See 8 U.S.C. §§ 1101(a)(13)(A), 1225(a)(1), (b)(2)(A). It states:

> Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that 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).3 The first relevant term is "applicant for admission," which is statutorily defined. See 8 U.S.C. § 1225(a)(1). The statute deems any alien (a person who is not a citizen or national of the United States, 8 U.S.C. § 1101(a)(3)) "present in the United States who has not been admitted" to be an "applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, under its plain terms, all unadmitted foreign nationals in the United States are "applicants for admission," regardless of their proximity to the border, the length of time they have been present here, or whether they ever had the subjective intent to properly apply for admission. See id. While this may seem like a counterintuitive way to define an "applicant for admission," "[w]hen a statute includes an explicit definition, [courts] must follow that definition, even if it varies from a term's ordinary meaning." *Digital Realty Tr.*,

Inc. v. Somers, 583 U.S. 149, 160 (2018) (cleaned up). Thus, under the plain text of the statute, Petitioner is unambiguously an "applicant for admission" because he is a foreign national, he was not admitted, and he was present in the United States when he was apprehended by ICE.

The next relevant portion of the statute is whether an examining immigration officer determined that Petitioner was "seeking admission." See 8 U.S.C. § 1225(b)(2)(A). The INA defines "admission" 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)4. Therefore, the inquiry is whether an immigration officer determined that Petitioner was seeking a "lawful entry." *See id.* A foreign national's past unlawful physical entry has no bearing on this analysis. *See id.* This element of "lawful entry" is important here for two reasons. First, a foreign national cannot legally be admitted into the United States without a lawful entry. See 8 U.S.C. §§ 1101(a)(13), 1225(a)(3); *see also Sanchez v. Mayorkas*, 593 U.S. 409, 411–12 (2021) (recognizing that "admission" means "lawful entry"). Second, a foreign national cannot remain in the United States without a lawful entry because a foreign national is removable if he or she did not enter lawfully. See 8 U.S.C. §§ 1182(a)(6), 1227(a)(1)(A). Indeed, the charges of removal against Petitioner are based on her unlawful entry. Ex. 1. So, unless Petitioner obtains a lawful admission in the future, she will be subject to removal in perpetuity. See 8 U.S.C. §§ 1101(a)(13), 1182(a)(6), and 1227(a)(1)(A).

The INA provides two examples of foreign nationals who have not yet been admitted but are not "seeking admission." The first is someone who withdraws his or her application for admission and "depart[s] immediately from the United States." 8 U.S.C. § 1225(a)(4); *see also Matushkina v. Nielsen*, 877 F.3d 289, 291 (7th Cir. 2017) (providing a relevant example of this phenomenon). The second is someone who agrees to voluntarily depart "in lieu of being subject to proceedings under § 1229a . . . or prior to the completion of such proceedings." 8 U.S.C. § 1229c(a)(1). This means even in removal proceedings, a foreign national can concede removability and accept removal, in which case he will no longer be "seeking admission." 8 U.S.C. § 1229a(d). Foreign nationals present in the United States for more than two years who have not been lawfully admitted and who do not agree to immediately depart are seeking admission and must be referred for removal proceedings under § 1229a. See 8 U.S.C. §§ 1225(a)(1), (b)(2)(A). Notably, this is not the same as an expedited removal under § 1225(b)(1). Instead, under the clear provisions of §1225(b)(2), removal proceedings must proceed as outlined under § 1229a. Accordingly, Petitioner is still "seeking admission" under § 1225(b)(2) because he has not agreed to depart, and he has not yet conceded his removability or allowed his removal proceedings to play out – he wants to be admitted via her removal proceedings. *See Dep't of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 108–09 (2020) (discussing how "[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival)" is deemed "an applicant for admission").

Thus, the Court should find that Ms. Martinez is seeking admission to this country under § 1225. Any other interpretation would reward her for violating the law by entering and remaining in the United States unlawfully—defying the intent reflected in the plain text of the statute. See 8 U.S.C. § 1225; see also *Thuraissigiam*, 591 U.S. at 140 (avoiding interpretation that might create a "perverse incentive to enter at an unlawful rather than a lawful location").

The final textual requirement here is that Petitioner "shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). As explained above, Petitioner is not in expedited removal at all. He has instead been placed in full removal proceedings where he has or will receive the benefits of the procedures in immigration court (motions, hearings, testimony, evidence, and appeals) provided in § 1229a. Therefore, he also meets this textual element within § 1225(b)(2)(A) because he is in 1229a removal proceedings and is thus subject to mandatory detention during the pendency of these proceedings.

In sum, the plain text of § 1225(b)(2) unambiguously applies to Petitioner. "Where the language is plain and admits of no more than one meaning, the duty of interpretation does not arise, and the rules which are to aid doubtful meanings need no discussion." *Caminetti v. United States*, 242 U.S. 470, 485 (1917). This principle applies even where a petitioner contends that the plain application of the statute would lead to a harsh result. *See, e.g., Jay v. Boyd*, 351 U.S. 345, 357 (1956) (courts "must adopt the plain meaning of a statute, however severe the consequences"). Therefore, no further exercise in statutory interpretation is necessary or

permissible in this case and the court should conclude that Petitioner's detention under § 1225(b)(2) is lawful.

a. Section 1225, not, § 1226 governs this action

Petitioner's argument that being present in the United States limits the scope of § 1225(b)(2)(A) is unpersuasive. The BIA has long recognized that "many people who are not actually requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws." *Matter of Lemus-Losa*, 25 I&N Dec. 734, 743 (BIA 2012). Petitioner "provides no legal authority for the proposition that after some undefined period of time residing in the interior of the United States without lawful status, the INA provides that an applicant for admission is no longer 'seeking admission,' and has somehow converted to a status that renders him or her eligible for a bond hearing under section 236(a) of the INA [8 U.S.C. § 1226(a)]." *Matter of Yajure Hurtado*, 29 I&N Dec. at 221 (citing *Matter of Lemus-Losa*, 25 I&N Dec. at 743 & n.6).

Statutory language "is known by the company it keeps." *McDonnell v. United States*, 579 U.S. 550, 569 (2016)). The phrase "seeking admission" in § 1225(b)(2)(A) must be read in the context of the definition of "applicant for admission" in § 1225(a)(1). Applicants for admission are both those individuals present without admission and those who arrive in the United States. See 8 U.S.C. § 1225(a)(1). Both are understood to be "seeking admission" under §1225(a)(1). *See Matter of Yajure Hurtado*, 29 I&N Dec. at 221; *Lemus-Losa*, 25 I&N Dec. at 743.

Petitioner cites the Supreme Court's decision in Jennings as support for the proposition that if the unadmitted, undocumented alien is physically "present in" the United States, they are no longer an applicant for admission under § 1225 and can only be detained pursuant to the provisions of § 1226, which they claim requires an individualized bond hearing. However, this is not at all what the Supreme Court held in Jennings, and the Court's analysis actually supports the Respondents' position that Petitioner is an "applicant for admission" and, thus, subject to mandatory detention under § 1225(b)(2) during the pendency of his removal proceedings.

In *Jennings*, the Supreme Court reviewed the Ninth Circuit's imposition of a six-month time limit on any detention under §§ 1225(b) and 1226 and periodic bond hearings under § 1226(a). *Jennings*, at 292. The Supreme Court concluded that detentions pursuant to §§ 1225(b)(1) and 1225(b)(2) do not contain six-month time limitations and instead, the duration of mandatory detention extends through the completion of the removal proceedings. *Id.* at 302. Similarly, the Court concluded that detentions pursuant § 1226(c) do not have a six-month time limit and § 1226(a) does not require periodic reviews of the bond determinations. *Id.* at 305-306.

Unfortunately, when describing §§ 1225 and 1226 in *Jennings*, the Supreme Court used imprecise language which suggests a dichotomy, that § 1225 is for recently arriving aliens (i.e. entering at the border) and § 1226 is for aliens who reside here (i.e. are "present within the United States"), without regard to the alien's admission status. *Id.* at 289. This dichotomy, however, is not supported by

the clear language of the INA. The *Jennings* Court likely did not foresee the confusion its language could create because *Jennings* involved an alien who was previously granted lawful permanent residence status. *Id.* at 291. As such, he was not an inadmissible alien nor an applicant for admission. See 8 U.S.C. § 1182 and §1225(a)(1). Instead, he was an admitted alien. See, 8 U.S.C. § 1101(a)(13)(A) and (C).

In contrast, an inadmissible alien who entered illegally and not at a designated port of entry (like the Petitioner in this case) remains an "applicant for admission" and is not entitled to the same rights under the INA as those afforded to admitted aliens. Further, an inadmissible alien should clearly not be entitled to more rights than an alien entering lawfully at a port of entry to seek admission. Inadmissible aliens who are present in the United States are intended by Congress to be treated as applicants for admission, which the Jennings Court recognized:

> Under . . . 8 U.S.C. § 1225, an alien who "arrives in the United States," or "is present" in this country but "has not been admitted," is treated as an applicant for admission."

Id. at 287. (emphasis added). The presence of the conjunction "or" in the statute clearly indicates two categories of aliens who are considered "applicants for admission" in § 1225. The Jennings Court did not focus on the second category of aliens, those present in the country but not admitted, such as the Petitioner in this case. And the Jennings Court did not hold that an alien entering illegally and being apprehended within the interior of the United States renders § 1225 inapplicable such that the Petitioner should avoid mandatory detention during the pendency of removal proceedings and be eligible for a bond hearing under § 1226.

The argument that DHS's interpretation of § 1225 would render § 1226 unnecessary is incorrect. The crux of this dispute is one of statutory interpretation. § 1225(b) provides for mandatory detention of any alien "who is an applicant for admission." And "applicants for admission" specifically includes all aliens present in the United States who have not been admitted or who arrive in the United States. 8 U.S.C. § 1225(a)(1). Accordingly, whether an alien is inside the U.S. at the time of encounter with an ICE official does not matter if that alien entered at an unknown location, successfully evaded U.S. Border Patrol for some unknown amount of time and effected an unlawful entry into the interior of the United States. That alien nonetheless remains an "applicant for admission" who is subject to mandatory detention once apprehended unless paroled by the Department of Homeland Security ("DHS") in its sole discretion.

Notwithstanding the mandatory detention provisions of both § 1225(b)(1) and (b)(2), § 1226 can clearly apply to another category of aliens that are not covered under § 1225 - those who are present in the United States and are not applicants for admission. Although already admitted, therefore not an applicant for admission within the definition of § 1225(a)(1), an alien may still become removable for certain reasons, subjecting them to "arrest and detention pending a decision on whether the alien is to be removed from the United States", which is a proper application of § 1226. This was precisely the case with the petitioner in Jennings, who was not an applicant for admission under § 1225 because he was a lawful permanent resident. Instead, that petitioner was detained pursuant to § 1226 while the government

sought to remove him after a 2004 criminal conviction which called his lawful permanent residence status into question. Accordingly, he was potentially entitled to a bond hearing under the provisions of § 1226 and he was not subject to mandatory detention under 1225(b)(2) for the reason that he was not an "applicant for admission". The *Jennings* decision was not based on the fact that the petitioner was "present in the United States," despite the imprecise language used by the Supreme Court in its decision.

A careful reading of § 1225 clearly shows that it only pertains to applicants for admission – which does not encompass every category of alien that may be present in the United States. § 1225 prescribes the specific procedures for inspection by the immigration officers to determine whether to admit or remove applicants for admission (i.e. whether under § 1229a proceedings or by expedited removal) and requires mandatory detention during that process. Conversely, § 1226 applies to "aliens", which means any person who is not a citizen or national of the United States. 8 U.S.C. §1101(a)(3). Therefore, § 1226 does not exclude applicants for admission and authorizes arrest, revocation of bond and parole, and detention. § 1226 also does not permit discretionary detention or bond for those aliens who are also "applicants for admission" under § 1225(a), because that would be inconsistent with the obvious statutory intent to detain aliens who are applicants for admission on a non-discretionary basis as set forth in §§ 1225(b)(1)(B)(iii)(IV) and (b)(2)(A).

Congress provided that mandatory detention pending removal proceedings is the norm—not the exception—for those who enter the country without inspection

and who lack documents sufficient for admission or entry. See 8 U.S.C. § 1225(b)(2). And for good reason: detention pending removal proceedings is the historical norm and, in this context, reflects the reality that aliens have avoided inspection by sneaking into the United States. *See Demore v. Kim*, 538 U.S. 510, 523 (2003) (*citing Wong Wing v. United States*, 163 U.S. 228, 235 (1896)). When Congress enacted 8 U.S.C. § 1225(b) as part of the immigration reforms of 1996, it determined that treating all unadmitted aliens similarly in terms of detention and removal eliminated unintended consequences and perverse incentives that pervaded the prior system, under which undocumented aliens who entered without inspection received more procedural protections—including the ability to seek release on bond—than those who presented themselves for inspection at ports of entry. In essence, the pre-1996 law favored those that entered the U.S. illegally and clandestinely, which Congress sought to end. Through mandatory detention of applicants for admission, Congress further ensured that the Executive Branch could give effect to the provisions for removal of aliens. *See Demore*, 538 U.S. at 531. The legislative history is instructive. As explained by the BIA in Yajure Hurtado, 29 I&N 216 (BIA Sep. 5, 2025), before the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IRRIRA"), the INA provided for inspection of only immigrants arriving at a port of entry. *Id.* at 222. Aliens in the United States were put into removal proceedings but were bond eligible. *Id.* at 223.

> Congress acted, in part, to remedy 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 restrained by 'more summary exclusion proceedings,'" and were subject to mandatory custody. (Citing Martinez v. Att'y Gen. of U.S., 693 F.3d 408, 413 n.5 (3d Cir. 2012). . . Thus, after the 1996 enactment of the IIRIRA, aliens who enter the United States without inspection or admission are "applicants for admission" under section 235(a)(1) of the INA, 8 U.S.C. § 1225(a)(1), and subject to the inspection, detention, and removal procedures of section 235(b) of the INA.

Id. at 223.

This history supports the result required by the plain language of the statute itself. Indeed, many other district courts, including several recent decisions from within this district, have recognized that mandatory detention of inadmissible aliens who are "applicants for admission" for the duration of their removal proceedings is required by 1225(b)(2). *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" 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)).[4]

Petitioner argues that the plain language of § 1225(b)(2) does not matter, because the government has in the past treated certain aliens who enter without inspection but who are arrested in the interior as subject to discretionary detention

[4] See also, Padilla v. Galovich, No. 25-CV-865, 2025 WL 3640960 (W.D. Wis. Dec. 16, 2025); Coronado v. Sec'y, DHS, No. 1:25-CV-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); Liang v. Almodovar, No. 1:25-cv-09322, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); Delgado v. Noem, No. 9:25-CV-00329, 2025 WL 3639439 (E.D. Tex. Dec. 12, 2025); Rodriguez v. Noem, No. 9:25-CV-00320, 2025 WL 3639440 (E.D. Tex. Dec. 10, 2025); Garcia v. U.S. Attn'y Gen., No. 2:25-CV-1053, 2025 WL 3537592 (M.D. Fla. Dec. 10, 2025); Ugarte-Arenas v. Olson, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec.8, 2025); Melgar v. Bondi, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025); Candido v. Bondi, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025); Chen v. Almodovar, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); Cruz v. Noem, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); Suarez v. Noem, No. 1:25-CV-00202, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025); Garcia v. Immigr. & Customs Enf't Dep't of Homeland Sec., No. 2:25-CV-1004, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025); Ba v. Dir. of Detroit Field Office, No. 4:25-CV-02208, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025); Jimenez v. Thompson, No. 4:25-CV-05026, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025); Alonzo v. Noem, -- F. Supp. 3d --, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025); Valencia v. Chestnut, -- F. Supp. 3d --, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); Cabanas v. Bondi, No. 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); Ramos v. Lyons, No. 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); Mursalin v. Dedos, Warden, No. 1:25-cv-00681, 2025 WL 3140824 (D.N.M. Nov. 10, 2025); Olalde v. Noem, No. 1:25-cv-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); Rojas v. Olson, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); Garibay-Robledo v. Noem, No. 1:25-CV-177, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025); Ba v. Dir. of Detroit Field Office, No. 4:25-CV-02208, 2025 WL 2977712 (N.D. Ohio Oct. 22, 2025), reconsideration denied, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025); Vargas Lopez v. Trump, -- F. Supp. 3d --, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); Chavez v. Noem, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); Pena v. Hyde, No. 25-cv-11983, 2025 WL 2108913 (D. Mass. July 28, 2025).

under § 1226(a). But this prior practice has no bearing on the legal issues here, as detention is mandated by the plain language of the statute, and Congress's mandate is supported by eminently reasonable grounds. After all, where (as here) "the words of a statute are unambiguous, this first step of the interpretive inquiry [i.e., construing the statutory text] is [the court's] last." *Rotkiske v. Klemm*, 589 U.S. 8, 13 (2019) (citation omitted).

B. Ms. Martinez has failed to show Irreparable Harm.

Petitioner has not shown that she will suffer irreparable harm in the absence of a preliminary injunction. *Winter v. National Resources Defense Counsel, Inc.*, 555 U.S. 7, 20 (2008). Detention alone does not constitute irreparable harm. Because the type of harm Petitioner alleges "is essentially inherent in detention, the Court cannot weigh this strongly in favor of" Petitioner. *Lopez Reyes v. Bonnar*, 2018 WL 7474861 at *10 (N.D. Cal. Dec. 24, 2018). Indeed, "if detention during removal proceedings constitutes irreparable harm in and of itself, nearly all habeas petitioners would be entitled to injunctive relief." *Abi v. Barr*, 2019 WL 2463036, at *2 (D. Minn. 2019). Nor has Petitioner alleged any legitimate harm of a constitutional dimension. See supra. Given the absence of any irreparable harm that would befall Petitioner if he were not released, there is no basis to enter preliminary injunctive relief.

C. The Balance of Equities Weigh Against Granting the Injunction

The balance of equities and public interest weigh against granting a preliminary injunction. The final two factors required for preliminary injunctive

relief—balancing of the harm to the opposing party and the public interest—merge when the Government is the opposing party. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). The Supreme Court has specifically acknowledged that "[f]ew interests can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985); see also United States v. Brignoni-Ponce, 422 U.S. 873, 878-79 (1975); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1220-21 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.").

There is a strong governmental interest in ensuring appearance for removal proceedings and prompt removal through detention pending removal proceedings. This interest outweighs the Petitioner's alleged hardships. Even assuming Petitioner were likely to succeed on the merits of his claims (she is not), the balance of the equities weighs heavily in favor of the government, and the Court should decline to enter any injunction.

CONCLUSION

For these reasons, the United States respectfully requests the Court to should dismiss the Petition, deny the Motion, and allow the administrative process to run its course.

Respectfully submitted this 28th day of January, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have filed this case with the CM/ECF system which provided a copy of the same to all counsel of record.

Dated this 28th day of January, 2026.

/s/ Stephen D. Wadsworth
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

DECLARATION OF ASSISTANT FIELD OFFICE DIRECTOR FRANCISCO J. AYALA

I, Francisco J. Ayala, hereby declare that, to the best of my knowledge, information, and belief, and under the penalty of perjury, the following is true and correct:

1) I am an Assistant Field Office Director (AFOD) with the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and employed with the Enforcement and Removal Operations (ERO) division. I was assigned to this position in August 2025. In this capacity, I manage several aspects of the immigration enforcement process, including the identification and arrest, transportation, detention, case management, and removal of aliens. Additionally, I provide oversight over operations in the State of Alabama and Central Mississippi.

2) I have prepared this declaration at the request of the U.S. Department of Justice, the United States Attorney's Office, Middle District of Alabama, in connection with a pleading styled "Petitioner's Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction" filed by Maria Estela Tetla Martinez (Petitioner), who has been assigned the alien registration number [redacted] I make this declaration based on my review of DHS electronic databases and documents contained in the alien administrative file pertaining to Petitioner.

3) ERO encountered Petitioner, who is a native and citizen of Mexico, at the Coffee County Jail in Coffee County, Alabama on October 25, 2025, and determined she was present in the United States in violation of the Immigration and Nationality Act ("INA"). ERO then issued a DHS Form I-247A Immigration Detainer – Notice of Action.

4) Thus, on January 24, 2026, ERO arrested Petitioner following her release from Coffee County Jail, and she was taken to the Montgomery ERO Suboffice for processing. She was then transported to Pickens County Jail where she remains in ICE custody.

5) Immigration records do not reflect any other encounters with immigration officials.

6) Immigration records do not reflect a legal entry by Petitioner. Petitioner was detained pursuant to Section 235 of the INA, under which aliens who are present in the United States who have not been admitted are considered applicants for admission.

7) On January 24, 2026, DHS served Petitioner with Form I-862, Notice to Appear (NTA) pursuant to Section 212(a)(6)(A)(i) and Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA), placing Petitioner in immigration court proceedings under INA § 240. At the time of the drafting of this declaration, Petitioner's NTA has been filed with the Executive Office of Immigration Review (EOIR).

I declare under penalty of perjury that the foregoing is true and correct.

Digitally signed by FRANCISCO J AYALA
Date: 2026.01.27 18:20:13 -06'00'

January 27, 2026
Executed on this date

AFOD Francisco J. Ayala