

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 26-cv-20405-JB

IBEY CHAVIANO JUVIER,

Petitioner,

v.

PAMELA JO BONDI, Attorney General of
the United State of America, in her official
capacity, *et al.*,

Respondents.

**RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER TO SHOW CAUSE**

Respondents,¹ through the undersigned Assistant United States Attorney, consistent with this Court's Order (ECF No. 8), respectfully submit this Response to Petitioner Ibey Chaviano Juvier's Petition for Writ of Habeas Corpus (ECF No. 1) ("Petitioner" and the "Petition"). This Court should dismiss the Petition for lack of jurisdiction or in the alternative deny Petitioner's claim that he is being unlawfully detained.

BACKGROUND

Petitioner, Ibey Chaviano Juvier, is a native and citizen of Cuba who illegally entered the United States on or about February 15, 2021. On the same date, Petitioner was encountered by agents of Customs and Border Protection (CBP). Petitioner stated that he did

¹ Because Petitioner is presently detained at Krome, the proper respondent is Charles Parra, in his official capacity as the assistant field office director in charge of the Krome Detention Center. *See* 28 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 438 (2004). This Court should dismiss the Complaint as to the remaining Respondents.

not possess any immigration documents that would allow him to enter or remain in the United States legally. Petitioner further admitted that he did not present himself to immigration officers at a port of entry. On or about February 17, 2021, Petitioner was taken into ICE custody. He was released on his own recognizance on or about March 13, 2021.

On August 21, 2024, United States Citizenship and Immigration Services (USCIS) issued a Notice to Appear (2024 NTA) initiating removal proceedings and charging Petitioner with inadmissibility under INA §§ 212(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. On August 8, 2025, an immigration judge granted Petitioner's unopposed motion to terminate proceedings.

On August 10, 2025, Petitioner was arrested by the Live Oak Police Department for a Hit and Run.² The Suwannee County Jail contacted Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) regarding Petitioner's immigration status, and ICE ERO issued an Immigration Detainer on August 10, 2025.³

On August 11, 2025, Petitioner was taken into ICE custody pending removal proceedings. On October 31, 2025, ICE issued a Notice to Appear (NTA) initiating removal proceedings and charging Petitioner with inadmissibility under INA §§ 212(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General; and under 212(a)(7)(A)(i)(I) as an immigrant who, at the time of application for admission, is not

² The 2025 I-213 appears to erroneously cite August 11, 2025, as the date of Petitioner's arrest. However, the arrest records confirm the arrest occurred on August 10, 2025.

³ The 2025 I-213 appears to erroneously cite August 11, 2025, as the date of this contact. However, the Immigration Detainer confirms that ICE ERO was aware of Petitioner's arrest on August 10, 2025.

in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act (INA), and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

On November 14, 2025, Petitioner appeared with counsel for a hearing before an immigration judge at the Krome Service Processing Center (Krome). At the hearing, the Immigration Judge sustained the charges of removal in the 2025 NTA. On or about November 21, 2025, Petitioner requested a custody redetermination, which the Immigration Judge denied on December 5, 2025, on the basis that he had no jurisdiction under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). To date, Petitioner has not appealed this decision to the Board of Immigration Appeals (Board).

On December 12, 2025, and January 13, 2026, Petitioner appeared with counsel for master calendar hearings before an immigration judge. His next master calendar hearing is scheduled for February 24, 2026. Petitioner remains detained at Krome. He is detained under the authority of INA §235(b)(2).

ARGUMENT

In his Petition, Petitioner claims that he is being unlawfully detained as part of a nationwide policy and has not been afforded a bond hearing, pursuant to 8 U.S.C. § 1226(a), in violation of the Immigration and Naturalization Act (Count I) and the Fifth Amendment to the United States Constitution (Count II) (ECF No. 1 at 11-12). This Court should dismiss the Petition for lack of jurisdiction or in the alternative deny the Petition because Petitioner's

claim that he is being unlawfully detained lacks merit in that 8 U.S.C. § 1225(b)(2)(A) authorizes his detention.

I. To the Extent Petitioner Alleges Nationwide Conduct, 8 U.S.C. § 1252(e)(3) Bars Review of Petitioner’s Claims.

“Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citation omitted); *see also Johansen v. Combustion Eng’g, Inc.*, 170 F.3d 1320, 1328 n.4 (11th Cir. 1999) (“A federal court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does not exist arises.”). For these reasons, before this Court can proceed, it must determine whether it has jurisdiction over this action. *See Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1323 (11th Cir. 2012) (“Prior to making an adjudication on the merits, we must assure ourselves that we have jurisdiction to hear the case before us.”).

Petitioner asks this Court to review “nationwide policies” (ECF No. 1 at 7; *see also id.* (describing “new policy”); *id.* at 8 (discussing “DHS’s new detention policy”)), which according to Petitioner led to his detention (*id.* at 2). Section 1252(e)(3), however, deprives this Court of jurisdiction, including *habeas corpus* jurisdiction, over such nationwide claims. Section 1252(e)(3) limits judicial review of “determinations under section 1225(b) of this title and its implementation” to only in the District Court for the District of Columbia. 8 U.S.C. § 1252(e)(3). Paragraph (e)(3) further confines this limited review to (1) whether § 1225(b) or an implementing regulation is constitutional or (2) whether a regulation or other written policy directive, guideline, or procedure implementing the section violates the law. *See* 8 U.S.C. § 1252(e)(3)(A)(i)-(ii); *see also M.M.V. v. Garland*, 1 F.4th 1100, 1109 (D.C. Cir. 2021). Unlike other provisions within 1252(e), section 1252(e)(3) applies broadly to judicial review

of section 1225(b), not just determinations under section 1225(b)(1). *Compare* 8 U.S.C. § 1252(e)(1)(A), (e)(2), *with* 8 U.S.C. § 1252(e)(3)(A). *See Russello v. United States*, 464 U.S. 16, 23 (1983) (quoting *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972)) (“[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.’ ... We refrain from concluding here that the differing language in the two subsections has the same meaning in each. We would not presume to ascribe this difference to a simple mistake in draftsmanship.”).

Here, Petitioner challenges “nationwide policies” which is covered by § 1252(e)(3)(A)(ii), and this Court lacks jurisdiction. *But see Boffill v. Field Office Director*, Case No. 25-CV-25179-JB (DE 19) (finding jurisdiction because petitioner was challenging individual denial of bond hearing).

II. Petitioner’s Claims Regarding Unlawful Detention Lack Merit.

If this Court disagrees, it should nonetheless deny the Petition because Petitioner’s claim that he is being unlawfully detained lacks merit in that 8 U.S.C. § 1225(b)(2)(A) authorizes his detention. *But see Penagos Quintero v. Ripa*, Case No. 25-CV-25746-JB (DE 14), *Boffill v. Field Office Director*, Case No. 25-CV-25179-JB (DE 19); *see also Cerro Perez v. Assistant Field Office Director, Krome North Services Processing Center et al.*, Appeal No. 25-14075 (11th Cir. 2025) (appeal of Case No. 25-CV-24820 (Williams, J.) (similar issue)); *Hernandez Alvarez v. Warden, Federal Detention Center Miami, et al.*, Appeal No. 25-14065 (11th Cir. 2025) (appeal of Case No. 25-CV-24806 (Williams, J.) (similar issue)); *see, generally*, Appeals 23-13664 & 24-10645, *Irela Labrada-Hechavarria, et al., v. U.S. Attorney General* and Appeal 24-10645, *Saul Castillo-Casanova, et al., v. U.S. Attorney General* (oral argument raising similar issue); *cf. Brown*

v. Allen, 344 U.S. 443, 540 (1953) (Jackson, J., concurring) (“We are not final because we are infallible, but we are infallible only because we are final.”).

The recently published decision issued by the BIA in *Matter of Yajure Hurtado* is instructive here because Petitioner is an applicant for admission seeking admission. In *Matter of Yajure Hurtado*, the BIA rejected the alien’s argument that “because he has been residing in the interior of the United States for almost 3 years . . . he cannot be considered as ‘seeking admission.’” 29 I&N Dec. at 221. The BIA determined that this argument “is not supported by the plain language of the INA” and creates a “legal conundrum.” *Id.* If the alien “is not admitted to the United States (as he admits) but he is not ‘seeking admission’ (as he contends), then what is his legal status?” *Id.* (parentheticals in original). The BIA’s decision is consistent not only with the plain language of § 1225(b)(2), but also with the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and subsequent caselaw post *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is “quite clear” and “unequivocally mandate[s]” detention. 583 U.S. at 300, 303.

Consistent with the BIA’s decision in *Matter of Yajure Hurtado*, Petitioner’s detention is lawful, and this Court should not order the relief sought by Petitioner.

CONCLUSION

For all these reasons, this Court should dismiss the Petition for lack of jurisdiction or deny the Petition on the merits.

Respectfully submitted,

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