

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

JEAN CARLOS CUEVAS MEDINA,

Petitioner,

v.

KRISTI NOEM, ET AL.,

Respondents.

Case No. 2:26-cv-116-SPC-NPM

**RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Petitioner Jean Carlos Cuevas Medina ("Petitioner") seeks the grant of a petition for writ of habeas corpus ("Petition") pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by Immigration and Customs Enforcement ("ICE") and seeking his immediate release from custody. Petitioner is currently detained under 8 U.S.C. § 1225(b)(2) and is therefore ineligible for release under 8 U.S.C. § 1226(a). He seeks to circumvent the detention statute under which he is rightfully detained to secure a custody redetermination hearing that he is not entitled to. Petitioner argues that—contrary to the plain language of 8 U.S.C. § 1225(b)(2)—the authority for his detention is better understood to arise under 8 U.S.C. § 1226(a), a detention statute that allows for release on bond or conditional parole. That argument fails to square with the fact that he falls neatly and precisely

within the statutory definition of aliens subject to detention pursuant to 8 U.S.C. § 1225(b)(2).¹

BACKGROUND

Petitioner is an alien “applicant for admission.” He is a native and citizen of the Dominican Republic who unlawfully entered the United States in 2022. *See* ECF No. 1-2 at 139; *see also* Notice to Appear dated December 15, 2025 (“Exhibit A”). Petitioner filed an application for asylum which was referred to the Executive Office for Immigration Review. *See* Form I-213, Record of Deportable/Inadmissible Alien (“Exhibit B”) at 3; *see* Petition, ¶ 4, 39; *see also* 8 C.F.R. § 1208.14(c). USCIS placed Petitioner in immigration removal proceedings which remain pending. Petition, ¶¶ 16, 39; *see also* 1-2 at 137; Exhibit A. On January 1, 2026, Petitioner was detained by immigration enforcement. Petition, ¶ 3; Exhibit B at 2. On January 22, 2026, Petitioner filed the instant action in the U.S. District Court seeking habeas relief and the same day the Court issued an order instructing Respondents to respond. *See* ECF Nos. 1, 4.

In response to this Court’s order, ECF No. 4, and for the reasons set forth below, Respondents respectfully request that this Court deny habeas relief.

¹ The Warden is the only appropriate Respondent. 8 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004); *Vandersnick v. Sec’y, Fla. Dep’t of Corr.*, No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021). Any relief the Court awards should be fashioned to that within the power of the immediate custodian (i.e., the Warden) or ICE/DHS. *See, e.g., Mirando Bravo v. Noem*, No. 2:25-cv-1046-SPC-DNF, Doc. 8 at *3 (M.D. Fla. Dec. 5, 2025) (ordering ICE either to bring petitioner for a bond hearing or release by a specific date).

ARGUMENT

I. Jurisdiction

Respondents acknowledge that this Court's prior rulings concerning jurisdiction pursuant to 8 U.S.C. §§ 1252(b)(9) and 1252(g) in similar challenges to the government policy or practice at issue in this case would control the result in this case should the Court adhere to its legal reasoning in those prior decisions and find the facts sufficiently common. *See e.g., Cetino v. Hardin, et al.*, No. 2:25-cv-1037-JES-DNF, 2025 WL 3558138 (M.D. Fla. Dec. 12, 2025). While Respondents respectfully disagree, in the interest of judicial economy, and to expedite the Court's consideration of this matter, Respondents hereby rely upon and incorporate by reference the legal arguments regarding jurisdiction under Sections 1252(b)(9) and 1252(g) as presented in *Cetino*.² *See Cetino*, No. 2:25-cv-830-JES-DNF, ECF No. 9. Should the Court prefer to receive a more exhaustive and fulsome opposition brief on these issues, Respondents respectfully request leave to file such a brief and will do so upon the Court's request.

In addition to the arguments previously raised, Respondents further asserts that Petitioner's Fourth Amendment claims are barred under 8 U.S.C. § 1252(g) because securing an alien while awaiting a removal determination constitutes an action to execute a removal order. *See Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013)

² Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of judicial economy, Respondents respectfully request the Court to suspend application of the rule. *See* Local Rule 1.01(a) and 1.01(b).

(“We conclude that Gupta’s claim [alleging that three U.S. ICE agents violated his Fourth and Fifth Amendment rights when they arrested and detained him in connection with the initiation of removal proceedings against him] arise from the actions taken to commence removal proceedings against him within the meaning of § 1252(g). We therefore do not reach the question of whether to recognize a Bivens action under these circumstances.”); *Kareva v. United States*, 9 F. Supp. 3d 838, 844-45 (S.D. Ohio 2014) (holding that “Section 1252(g) does apply in this case because Plaintiff’s claim for false arrest and imprisonment arises from “the decision or action by the Attorney General to ... execute removal orders.”); *see also Foster v. Townsley*, 243 F.3d 210, 214 (5th Cir. 2001) (finding that claims of excessive force, denial of due process, denial of equal protection and retaliation were “directly connected to the execution of the deportation order”); *Khorrami v. Rolince*, 493 F. Supp. 2d 1061, 1068 (N.D. Ill. 2007) (claim that federal agents violated Fourth Amendment during execution of removal order “was a direct outgrowth of the decision to commence proceedings”).

II. Petitioner’s Detention is Lawful

Petitioner’s detention is governed by 8 U.S.C. § 1225, as he is an alien who entered without inspection or parole, was—and remains—an applicant for admission, and is treated, for constitutional purposes, as if stopped at the border. As such, he is subject to mandatory detention. *See* 8 U.S.C. § 1225(b)(1)(B)(ii).

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals (“BIA”) examined the plain language of Section 1225, the

INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission." 29 I&N Dec. at 225.

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an "applicant for admission" as an "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 . . .)" 8 U.S.C. § 1225(a)(1); see *Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission."). Accordingly, by its very definition, the term "applicant for admission" includes two categories of aliens: (1) arriving aliens, and (2) aliens present without admission. See *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who

are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission”); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that “the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted” (citing 8 U.S.C. § 1225(a)(1))). An arriving alien is defined, in pertinent part, as “an applicant for admission coming or attempting to come into the United States at a port-of-entry [(“POE”)]” 8 C.F.R. §§ 1.2, 1001.1(q).

All aliens who are applicants for admission “shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) (“Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection”). An applicant for admission seeking admission at a United States POE “must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the immigration laws . . . to enter the United States.” 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. § 1229a(c)(2)(A) (describing the related burden of an applicant for admission in removal proceedings). “An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a].” 8 C.F.R. § 235.1(f)(2).

Here, Petitioner entered the United States in 2022 without having been

admitted after inspection by an immigration officer and he actively seeks asylum. *See* ECF No. 1-2 at 137; Exhibit A at 1; Exhibit B at 2. Petitioner is, therefore, an alien present without admission and an applicant for admission. His detention under Section 1225 proper and the manner in which ICE detained him is not violative of the Constitution.³

III. Petitioner Lacks Standing to Bring an Administrative Procedures Act Claim

By the APA's terms, it is available only for final agency action for which there is no other adequate remedy in court. 5 U.S.C. § 704. Thus, Petitioner's APA claim is independently barred by this limitation in 5 U.S.C. § 704. In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, necessarily imply the invalidity of their confinement those claims must be brought in habeas. 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, "given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another 'adequate remedy in court', I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." *Id.* at 1007 (Kavanaugh, J. concurring).

Here, as in *J.G.G.*, habeas is an adequate remedy through which Petitioner can

³ Petitioner has raised claims pursuant to the Fourth Amendment, alleging that he was arrested without warrant and is being held without cause. For the reasons discussed in detail *supra* Petitioner's ongoing detention is indeed supported by the INA. But even under a reading of the INA unfavorable to the government's position, were Petitioner subject to detention under 8 U.S.C. § 1226, the statute still supports the government's position as it explicitly states that "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States" as is the case here. Finally, to the extent that Petitioner alleges his arrest was without warrant, he is incorrect. *See* Warrant of Arrest, "Exhibit C".

challenge his detention. Even if Petitioner's APA claim had merit, which it does not, the result would be the same as that in habeas release from detention. The Supreme Court's holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953)).

CONCLUSION

Petitioner's habeas petition should be denied. Respondents have shown that Petitioner's detention pursuant to Section 1225 is lawful because the INA mandates it. Even so, this Court lacks jurisdiction to act on Petitioner's claims. All relief should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 26, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system and will ensure service via mail to Plaintiff at the following address:

Jean Carlos Cuevas Medina
Florida Soft Side South
54575 Tamiami Trl E
Ochopee, FL 34141

Dated: January 26, 2026

Signed:

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney