

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**Rigoberto Mendoza Lorenzo,**

Petitioner,

v.

Case No.: 3:26-cv-126-JEP-PDB

**Kristi Noem**, Secretary of the Department of Homeland Security; **Pamela Bondi**, Attorney General of the U.S.; **Todd M. Lyons**, Acting Director U.S. Immigration and Customs Enforcement; **Garrett Ripa**, ICE ERO Miami Field Office Director; **Ronnie Woodall**, Warden,

Respondents.

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR  
WRIT OF HABEAS CORPUS**

Petitioner, by and through the undersigned counsel, hereby files his Reply to Respondents' Response to Petition for Writ of Habeas Corpus (ECF No. 7).

**I. The Court Has Jurisdiction Over Petitioner's Claims and is not barred by 8 U.S.C. §§ 1252(g) or 1252(b)(9).**

Contrary to Respondents' argument, Sections 1252(g) and 1252(b)(9) of the Immigration and Nationality Act (INA) do not divest this Court of jurisdiction. Sections 1252(g) and 1252(b)(9) channel review of removal-related decisions to the courts of appeals. They do not eliminate habeas jurisdiction over challenges to unlawful detention that are independent of the removal process itself.

In *Jennings v. Rodriguez*, 583 US 281 (2018), the United States Supreme Court, in determining whether § 1252(b)(9) deprived it of jurisdiction, looked at cases in which another INA section with similar terms, § 1252(g), deprived it of jurisdiction, stated as follows:

In past cases, when confronted with capacious phrases like “arising from,” we have eschewed “uncritical literalism” leading to results that “no sensible person could have intended.” *Gobeille v. Liberty Mut. Ins. Co.*, 577 U.S. 312, 319, 136 S.Ct. 936, 943, 194 L.Ed.2d 20 (2016)(interpreting phrase “relate to” in the Employee Retirement Income Security Act of 1974’s pre-emption provision). *See also, e.g., FERC v. Electric Power Supply Assn.*, 577 U.S. 260, 277–278, 136 S.Ct. 760, 773–775, 193 L.Ed.2d 661 (2016)(interpreting term “affecting” in Federal Power Act); *Maracich v. Spears*, 570 U.S. 48, 59–61, 133 S.Ct. 2191, 186 L.Ed.2d 275 (2013)(interpreting phrase “in connection with” in Driver’s Privacy Protection Act); *Dan’s City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 260–261, 133 S.Ct. 1769, 185 L.Ed.2d 909 (2013)(interpreting phrase “related to” in Federal Aviation Administration Authorization Act); *Celotex Corp. v. Edwards*, 514 U.S. 300, 308, 115 S.Ct. 1493, 131 L.Ed.2d 403 (1995)(interpreting phrase “related to” in Bankruptcy Act). In *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999), we took this approach in construing the very phrase that appears in § 1252(b)(9). A neighboring provision of the Immigration and Nationality Act refers to “any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” 8 U.S.C. § 1252(g) (emphasis added). We did not interpret this language to sweep in any claim that can technically be said to “arise from” the three listed actions of the Attorney General. Instead, we read the language to refer to just those three specific actions themselves. *American-Arab Anti-Discrimination Comm.*, *supra*, at 482–483, 119 S.Ct. 936.

The Supreme Court exercised jurisdiction in *Jennings*, noting that “respondents are not asking for review of an order of removal; they are not challenging the decision

to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined. Under these circumstances, § 1252(b)(9) does not present a jurisdictional bar.” *Id.* at 294-295.

Like the respondents in *Jennings*, Petitioner does not seek review of a removal order, does not challenge the decision to initiate removal proceedings, and does not contest the process for determining removability. He challenges only the statutory authority for his continued detention without bond. The Supreme Court has repeatedly exercised habeas jurisdiction to determine the statutory basis and constitutionality of immigration detention. *See Demore v. Kim*, 538 U.S. 510 (2003); *Brito Matom v. ICE*, 2025 WL 2577424, at \*1 (M.D. Fla. Sept. 5, 2025), *citing Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (“Section 2241 is the proper vehicle through which to challenge the constitutionality of a non-citizen’s detention without bail.”).

## **II. Petitioner Is Detained Under § 1226(a), Not § 1225(b)(2), and Is Therefore Eligible for Bond.**

Respondents argue that this Court’s decision in *Andres Diaz Lopez v. Director of Enforcement and Removal Operations, et al.*, Case No. 3:25-cv-1313-JEP-SJH, 2026 WL 261938 (M.D. Fla. Jan 26, 2026) should guide its decision here. In *Diaz Lopez*, this Court determined that 8 U.S.C. § 1225(b)(2)(A) applies to an individual in

Petitioner's position, instead of 8 U.S.C. § 1226(a). Petitioner disagrees with this Court's interpretation.

This Court in *Diaz Lopez* rejects the argument that individuals "seeking admission" are a distinct and narrower class than applicants for admission. According to this Court, applicants for admission are among those seeking admission, "to seek" is synonymous with "apply" for, and the statute is not temporally or geographically limited. This interpretation leaves the phrase "alien seeking admission" in § 1225(b)(2)(A) without any purpose. However, statutory construction requires the courts to give effect to every clause and word in a statute. *See Williams v. Taylor*, 529 U.S. 362, 404 (2000).

8 U.S.C. § 1225(b)(2)(A) mandates detention of applicants for admission "if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to admission." (Emphasis added.) Admission is defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 USC 1101(a)(13)(A). The statute clearly requires that the individual be seeking lawful entry into the United States after inspection and authorization by an immigration officer at the time of his detention. If applicants for admission were already considered to be seeking admission, as the Court states in *Diaz Lopez*, the phrase "seeking admission" would not be necessary in 8 U.S.C. § 1225(b)(2)(A). Petitioner was not seeking admission,

*i.e.*, lawful entry into the United States after inspection and authorization by an immigration officer, at the time of his detention.

The INA defines applicant for admission as an individual “present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). The INA does not define seek, but its ordinary definition requires present, active action on the individual’s part. *Seek*, Merriam Webster Online, <https://www.merriam-webster.com/dictionary/seek> (last visited February 26, 2026) (defining seek as “to go in search of,” “to look for,” “to ask for,” and “to try to acquire or gain”). The definition of applicant for admission, as stated in the INA, does not require present, active action. It only requires that the individual be present without having been admitted. Therefore, an individual may be present in the country without having been admitted, yet not be engaged in any present, active action.

This Court’s reading of 8 U.S.C. § 1225(a)(1) in *Diaz Lopez* renders portions of 8 U.S.C. § 1226 superfluous, including the recent amendments passed under the Laken Riley Act (“LRA”). Congress amended § 1226 to expand mandatory detention categories. If § 1225 already mandated detention for all present-but-unadmitted noncitizens, Congress’s amendment to § 1226 would be meaningless. The LRA added another category of non-citizens who are not eligible to be released on bond under 8 U.S.C. § 1226(a) – non-citizens who are inadmissible, including for *being present in the US without being admitted or paroled*, and who have

been arrested for, charged with, or convicted of certain additional crimes not previously included. This specific exception, along with the ones already in the statute, leaves inadmissible non-citizens, including those who are inadmissible because they are present without being admitted or paroled, but who have not been arrested for, charged with, or convicted of certain crimes, subject to the discretionary provisions of 8 U.S.C. § 1226(a).

The US Supreme Court in *Jennings v. Rodriguez*, 583 US 281 (2018), analyzed the interplay of § 1226 and § 1225. The Supreme Court stated:

In sum, U.S. Immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).

*Id.* at 289. This Court disregards this as dicta, however, the Supreme Court's explanation of the law, whether dicta or not, is to be followed by the courts. *See, Schwab v. Crosby*, 451 F.3d 1308, 1326 (11th Cir. 2006) ("We have previously recognized that 'dicta from the Supreme Court is not something to be lightly cast aside.'"); *Peterson v. BMI Refractories*, 124 F.3d 1386, 1392 n.4 (11th Cir. 1997); *United States v. Becton*, 632 F.2d 1294, 1296 n.3 (5th Cir. 1980) ("We are not bound by dicta, even of our own court.. . . Dicta of the Supreme Court are, of course, another matter.") (citation omitted); *United States v. City of Hialeah*, 140 F.3d 968, 974 (11th Cir. 1998) ("Even though that statement by the Supreme Court . . . was dictum, it

is of considerable persuasive value, especially because it interprets the Court's own precedent.'). Therefore, the Supreme Court's clear distinction between those individuals subject to detention under § 1226 and § 1225 is to be followed by this Court and supports Petitioner's position that he is subject to detention pursuant to § 1226 and eligible to be released on bond by an immigration judge.

WHEREFORE, Petitioner respectfully requests that this Court order Petitioner's immediate release or, in the alternative, that it order Respondents to provide an individualized custody redetermination hearing.

Dated: March 9, 2026

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 9, 2026, I filed this document using the Court's electronic filing system, which will send notice to all parties.

/s/ Evelyn J. Pabon Figueroa /s/

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