UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 26-CV-60206-DMM

TELLEZ LOPEZ,

Petitioner,

v.

IMMIGRATION and CUSTOMS ENFORCEMENT (ICE); ENFORCEMENT AND REMOVAL OPERATIONS (ERO); ACTING EXECUTIVE ASSOCIATE DIRECTOR *et al.*

Respondents.
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RESPONDENTS' RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Respondents by and through the undersigned Assistant United States Attorney hereby file its Response to Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [DE 1] (the "Petition") and request that it be denied stating in support thereof as follows:

I. INTRODUCTION

Petitioner, Freddy Antonio Tellez Lopez ("Petitioner") attempts to circumvent 8 U.S.C. § 1225(b)(2)(A), the statute under which he is lawfully detained by virtue of filing this Petition and requesting that he be released or provided a bond hearing under 8 U.S.C. § 1226(a). *See* [DE 1 ¶ 20]. Petitioner argues that the authority for his detention instead arises under § 1226(a) because he "entered the United States without inspection … was not apprehended at the border, and has lived openly and continuously in the interior of the United States for over four (4) years." *See id.* at ¶¶

3-4. Petitioner's position is that the application of § 1225(b) violates due process and is arbitrary/unreasonable. [DE 1, p. 8-9]. Petitioner further takes issue with the conditions of his confinement and alleges he has been deprived of basic human needs, which places him at substantial risk of physical and psychological harm. [DE 1, ¶ 46]. Such complaints are not properly raised in a habeas petition and should be disregarded by the Court. Moreover, Petitioner's argument overlooks that he falls squarely within the statutory definition of aliens subject to detention under § 1225(b)(2)(A), which is also consistent with the Board of Immigration Appeal's ("BIA") decision in *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).[1] Accordingly, the Petition should be denied.

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[1] Respondents recognize that adverse district court decisions from the Southern District of Florida have been issued with respect to this argument, but maintain and preserve its position for appellate purposes. *See, e.g., Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025) ("§ 1226(a), not § 1225(b)(2), governs Petitioner's detention"); *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41 (S.D. Fla. Oct. 10, 2025) ("§ 1226 governs Petitioner's detention"); *Hernandez Alvarez v. Acting Warden Roger Morris*, et al., Case No. 25-24806-CIV-WILLIAMS, ECF No. 6 (S.D. Fla. Oct. 27, 2025) (agreeing with petitioner that "detention is governed by 8 U.S.C. § 1226(a), which allows for the release of noncitizens on bond . . . not § 1225(b)(2), applicable to noncitizen "applicant[s] for admission" to the United States.); *Cerro Perez v. Parra*, et al., Case No. 25-24820-CIV-WILLIAMS, ECF No. 9 (S.D. Fla. Oct. 27, 2025) (same); *Alvarez Puga v. Assistant Field Office Director Krome,* et al., No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025) (concluding that "prudential exhaustion requirements are excused for futility" and finding that "section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A)"); *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN, ECF No. 8 (S.D. Fla. Dec. 22, 2025) (finding good cause to excuse Petitioner's failure to exhaust administrative remedies where it is evident the BIA will reject Petitioner's request for a bond hearing or release and that Petitioner is subject to detention under § 1226(a) and entitled to a bond hearing before an immigration judge); *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA, ECF NO.14 (Jan. 5, 2026) (concluding that jurisdiction is not barred by 8 U.S.C. § 1252, exhaustion was not required, and that the petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)); *Martinez v. Field Off. Dir.*, No. 25-26026-CIV-LEIBOWITZ, ECF No. 7 (S.D. Fla. Jan. 14, 2026) ("Pending the Eleventh Circuit's resolution of this issue, the Court continues to side with the clear weight of existing authority in finding that Petitioner here is entitled to a prompt, individualized bond hearing under 8 U.S.C. § 1226(a)"); *Espinal Encarnacion v. ICE Field Office Director*, et al., Case No. 25-61898-CIV-DAMIAN, ECF No. 29 (Dec. 23, 2025) ("this Court finds that 8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner's detention, and not Section 1225(b)"); Ocegueda Gonzalez v. Noem, et al., Case No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH, ECF No. 25 (Dec. 23, 2025) ("Having concluded that Petitioner's detention is governed by 8 U.S.C. § 1226(a), Petitioner is entitled to an individualized bond hearing before an immigration judge."); *Acosta v. Ripa*, et. al., Case No. 25-62360-CIV-DIMITROULEAS, ECF No. 19 at 7 (S.D. Fla. Dec. 26, 2025) ("§ 1226(a) and its implementing regulations govern Petitioner's detention, not § 1225(b)(2)(A)"); and *Fuentes Granados*

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of Nicaragua who last entered the United States without inspection on or about April 19, 2021. *See* Ex. 1, Form I-213, Record of Deportable/Inadmissible Alien, dated April 20, 2021. On April 20, 2021, a U.S. Customs and Border Protection ("CBP") border patrol agent encountered Petitioner. *Id.* Petitioner informed the border patrol agent that he deliberately crossed into the United States illegally afoot. *Id.* It was determined that Petitioner did not have any pending or actual immigration documents that would allow him to remain in the United States legally. *Id.*

On April 20, 2021, Petitioner was issued a Notice and Order of Expedited Removal pursuant to section 235(b)(1) of the Immigration and Nationality Act ("INA"). *See* Ex. 2, Form I-860, dated April 20, 2021. This Notice informed Petitioner that the Department of Homeland Security ("DHS") determined that he was inadmissible to the United States under section 212(a)(7)(A)(i)(I) of the INA. *Id.* On that same date, Petitioner provided a sworn statement to a border patrol agent regarding his proceedings under Section 235(b)(1) of the Act. *See* Ex. 3, Form I-867A, Record of Sworn Statement in Proceedings under Section 235(b)(1) of the INA, and Form I-867B, Jurat for Record of Sworn Statement in Proceedings under Section 235(b)(1) of the INA, dated April 20, 2021. On April 20, 2021, Petitioner was also issued a notice informing him that he had been found inadmissible to the United States and was prohibited from entering, attempting to enter, or being in the United States for 5 years from the date of his departure as a consequence of being found inadmissible as an arriving alien in proceedings under section 235(b)(1) of the INA.

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v. Secretary of Homeland Security, Case No. 26-60020-CIV-SMITH, ECF No. 7 (S.D. Fla. Jan. 27, 2026) ("Petitioner is being unlawfully detained due to his improper classification as "an alien who is an applicant for admission" pursuant to 8 U.S.C. § 1225(b)(2)(A)[;] . . .Petitioner's proper classification is a detainee pursuant to 8 U.S.C. § 1226(a)").

See Ex. 4, Form I-296, Notice to Alien Ordered Removed/Departure Verification, dated April 20, 2021.

On April 21, 2021, Petitioner was taken into Immigration and Customs Enforcement ("ICE") custody. *See* Ex. 5, Detention History. On May 5, 2021, Petitioner was released from custody under an Order of Release on Recognizance. *Id.*; *see* Ex. 6, Form I-286, Notice of Custody Determination, dated May 4, 2021; *see also* Ex. 7, Form I-220A, Order of Release on Recognizance, dated May 4, 2021.

On October 1, 2025, Petitioner was encountered and arrested by ICE Enforcement and Removal Operations ("ERO") in collaboration with U.S. Citizenship and Immigration Services ("USCIS") Miami. *See* Ex. 8; Form I-213, Record of Deportable/Inadmissible Alien, dated October 1, 2025. On that same date, Petitioner was issued a Warrant for Arrest. *See* Ex. 9, Form I-200, Warrant for Arrest of Alien, dated October 1, 2025.

On October 1, 2025, Petitioner's removal proceedings were referred to an Immigration Judge for review of his removal order. *See* Ex. 10, Form I-863, U.S. Department of Homeland Security Notice of Referral to Immigration Judge, dated October 1, 2025. On October 6, 2025, the Immigration Judge vacated DHS's determination and the expedited removal order. *See* Ex. 11, Order of the Immigration Judge, dated October 6, 2025.

On October 31, 2025. ERO issued Petitioner a Notice to Appear ("NTA"), charging Petitioner with removability pursuant to section 212(a)(7)(A)(i)(I) of the INA, in that Petitioner was an immigrant who, at the time of application for admission, was not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the INA. *See* Ex. 12, Form I-862, Notice to Appear, dated October 31, 2025. On December 9, 2025, an additional charge was lodged against Petitioner. *See* Ex. 13, Form I-261,

Additional Charges of Inadmissibility/Deportability, dated December 9, 2025. Petitioner was additionally charged with removability pursuant to section 212(a)(6)(A)(i) of the Act, in that Petitioner was an alien present in the United States without being admitted or paroled, or who arrived in the United States at a time or place other than as designated by the Attorney General. *Id.*

Petitioner filed a request for custody redetermination with the Immigration Court, and a hearing was set for December 9, 2025. *See* Ex. 14, Notice of Custody Redetermination Hearing in Immigration Proceedings, dated December 4, 2025. On December 9, 2025, the Immigration Judge denied Petitioner's request for bond, finding that the court had no jurisdiction to grant bond pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. 15, Order of the Immigration Judge, dated December 9, 2025. Petitioner's appellate due date was on or about January 8, 2026, and Petitioner did not file an appeal of this decision with the Board of Immigration Appeals ("BIA"). *See* Ex. 16, Declaration of Deportation Officer ("Declaration"), ¶ 16.

On January 13, 2026, the Immigration Judge granted DHS's Motion to Pretermit Petitioner's applications for relief and ordered Petitioner removed to Honduras. *See* Ex. 17, Order of the Immigration Judge, dated January 13, 2026. On January 14, 2026, Petitioner appealed the Immigration Judge's order granting pretermission and ordering removal. *See* Ex. 18, Filing Receipt for Appeal or Motion, dated January 31, 2026. This appeal is still pending with the BIA. *See* Ex. 16, Declaration, ¶ 18.

Petitioner remains in ICE custody at the Broward Transitional Center ("BTC"), pending the conclusion of his removal proceedings. *See* Ex. 5, Detention History.

III. ARGUMENT

A. Petitioner is an Applicant for Admission subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and discretionary detention under § 1226(a) is Inapplicable which was Clarified in the BIA's Decision in Matter of Yajure Hurtado.

"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.").

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'"); *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"). 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 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 also* 8 U.S.C. § 1229a(c)(2)(A) (explaining that an applicant for admission has the burden to establish that he or she is clearly and beyond doubt entitled to be admitted and is not inadmissible under 8 U.S.C. § 1182 in removal proceedings pursuant to § 1229a). "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).

Petitioner is a native and citizen of Nicaragua who last entered the United States without inspection on or about April 19, 2021. *See* Ex. 1, Form I-213, Record of Deportable/Inadmissible Alien, dated April 20, 2021. Petitioner is, therefore, an alien present in the United States without admission or parole and, consequently, an applicant for admission. The recently published decision issued by the BIA in *Matter of Yajure Hurtado* is instructive here. 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.

Similarly, relying on *Jennings* and the plain language of §§ 1225 and 1226(a), the Attorney General, in *Matter of M-S-,* 27 I&N Dec. 509 (A.G. 2019), recognized that §§ 1225 and 1226(a) do not overlap but describe "different classes of aliens." 27 I&N Dec. at 516. The Attorney General also held—in an analogous context—that aliens present without admission or parole who are placed into expedited removal proceedings are detained under § 1225 even if later placed in § 1229a removal proceedings after establishing a credible fear of persecution or torture. *Id.* at 518-19; *see also* 8 § U.S.C. 1225(b)(1)(B)(ii) (providing that if an alien subject to expedited removal demonstrates a credible fear of persecution or torture, the alien "shall be detained" for further consideration of an asylum application in § 1229a removal proceedings).

Additionally, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the BIA held that an alien who unlawfully entered the United States between POEs, was arrested and detained without a warrant while arriving, and was previously released from DHS custody pursuant to an 8 U.S.C. § 1182(d)(5)(A) parole is detained under § 1225(b) upon re-detention. 29 I&N Dec. at 70-71. This ongoing evolution of the law makes clear that all applicants for admission in various procedural postures are subject to detention under § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (stating that "no amount of policy-talk can overcome a plain statutory command"); *see generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS

retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit"). *Florida's* conclusion "that § 1225(b)'s 'shall be detained' means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*." *Florida*, 660 F. Supp. 3d at 1273.

B. Petitioner is an Applicant for Admission in 8 U.S.C. § 1229a Removal Proceedings and as such his Detention Pursuant to 8 U.S.C. § 1225(b)(2)(A) is Proper.

Both arriving aliens and aliens present without admission or parole, as applicants for admission, may be removed from the United States by, *inter alia*, expedited removal procedures under § 1225(b)(1) or removal proceedings before an immigration judge under § 1229a; §§ 1225(b)(1), (b)(2)(A). *See Jennings,* 583 U.S. at 287 (describing how "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)"). For aliens amenable to expedited removal, immigration officers have discretion to apply expedited removal under § 1225(b)(1) or to initiate removal proceedings before an immigration judge under § 1229a. *See also Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) ("DHS may place aliens arriving in the United States in either expedited removal proceedings under [8 U.S.C. § 1225(b)(1)], or full removal proceedings under [8 U.S.C. § 1229a]." (citations omitted)).

There is no question that Petitioner failed to present any valid entry documents and was neither admitted nor paroled into the United States. *See* Ex. 12, Form I-862, Notice to Appear, dated October 31, 2025; *see also* Ex. 13, Form I-261, Additional Charges of Inadmissibility/Deportability, dated December 9, 2025. Therefore, Petitioner is an applicant for admission, as defined by § 1225(a)(1), was determined to not be clearly and beyond a doubt entitled to be admitted, and remains in § 1229a removal proceedings, thus subjecting Petitioner to detention under § 1225(b)(2)(A). Under § 1225(b)(2)(A), "an alien who is an applicant for admission" "*shall be detained* for a proceeding under [8 U.S.C. § 1229a]" "if the examining

immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphasis added); 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under 8 U.S.C. § 1225 "shall be detained" pursuant to § 1225(b)(2)). As the Supreme Court observed in *Jennings*, nothing in § 1225(b)(2)(A) "says anything whatsoever about bond hearings." 583 U.S. at 297. There is also no textual basis for arguing that § 1225(b)(2)(A) applies only to arriving aliens as no provision therein refers to "arriving aliens," or limits that paragraph to arriving aliens. Where Congress means for a rule to apply only to "arriving aliens," it uses that specific term of art or similar phrasing. *See, e.g.*, 8 U.S.C. §§ 1182(a)(9)(A)(i), 1225(c)(1).

C. Section 1226 does Not Impact the Detention Authority that Governs with respect to Applicants for Admission in Removal proceedings.

Section 1226(a) is the applicable detention authority for aliens who have been admitted and are subject to removal proceedings under § 1229 and this does not impact the directive in § 1225(b)(2)(A) that "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 proceedings under [8 U.S.C. § 1229a]," § 1225(b)(2)(A). Petitioner is unlawfully in the United States, and he is not in possession of documentation allowing him to remain here lawfully. Ex. 16, Declaration, ¶ 14. As the Supreme Court explained, § 1226(a) "applies to aliens already present in the United States" and "creates a default rule for those aliens by permitting—but not requiring—the [Secretary] to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N Dec. at 516 (describing 8 U.S.C. § 1226(a) as a "permissive" detention authority separate from the "mandatory" detention authority under 8 U.S.C. § 1225).

Generally, such aliens may be released on bond or their own recognizance, also known as "conditional parole." 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. Section 1226(a) does not, however, confer the *right* to be released on bond; rather, both DHS and immigration judges have broad discretion in determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). Further, bond issued under § 1226(a) may be revoked at any time. *See* 8 U.S.C § 1226(b); *see also* 8 CFR 1236.1(c)(9). Lastly, to interpret § 1225(b)(2)(A) as not applying to all applicants for admission would render it meaningless. As explained above, Congress expanded § 1225(b) in 1996 to apply to a broader category of aliens, including those aliens who crossed the border illegally. There would have been no need for Congress to make such a change if § 1226(a) was meant to apply to aliens present without admission.

D. Applicants for Admission may Only be Released from Detention on an 8 U.S.C. § 1182(d)(5) Parole.

DHS has the exclusive authority to temporarily release on parole "any alien applying for admission to the United States" on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5); *see* 8 C.F.R. § 212.5(b). In *Jennings*, the Supreme Court placed significance on the fact that § 1182(d)(5) is the specific provision that authorizes temporary release from detention under § 1225(b). 583 U.S. at 300.

Parole, like an admission, is a factual occurrence. *See Hing Sum*, 602 F.3d at 1098; *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025) (treating whether an alien was paroled as a question of fact). The parole authority under 8 U.S.C. § 1182(d)(5) is "delegated solely to the Secretary of Homeland Security." *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 261 (BIA 2010); *see* 8 C.F.R. § 212.5(a). Thus, neither the BIA nor immigration judges have authority to parole an alien into the

United States under § 1182(d)(5). *Castillo-Padilla*, 25 I&N Dec. at 261; *see also Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771, 777 n.5 (BIA 2002) (indicating that "parole authority [under 8 U.S.C. § 1182(d)(5)] is now exercised exclusively by the DHS" and "reference to the Attorney General in [8 U.S.C. § 1182(d)(5)] is thus deemed to refer to the Secretary of Homeland Security"). Moreover, because DHS has exclusive jurisdiction to parole an alien into the United States, the manner in which DHS exercises its parole authority may not be reviewed by an immigration judge or the BIA. *Castillo-Padilla*, 25 I&N Dec. at 261; *see Matter of Castellon*, 17 I&N Dec. 616, 620 (BIA 1981) (noting that the BIA does not have authority to review the way DHS exercises its parole authority).

E. Petitioner's Discussion of the *Bautista* Decision is Irrelevant to this Court's Analysis.

Petitioner directs this Court to a decision issued in *Bautista v. Santa Cruz,* No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025) for the proposition that he is entitled to a bond hearing. *See* [DE 1, ¶ 1]. Specifically, the *Bautista* class sought a declaratory judgment that class members such as Petitioner were unlawfully detained under 8 U.S.C. § 1225(b)(2), rather than § 1226(a). This is core habeas relief that must be brought as a habeas claim alone. As the Supreme Court made clear just this year, "[r]egardless of whether [] detainees formally request release from confinement," if "their claims for relief necessarily imply the invalidity of their confinement[], their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (internal quotations omitted).

The Supreme Court has imposed two fundamental limits on federal court jurisdiction over core habeas claims. *First*, "jurisdiction lies in only one district: the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also J.G.G.*, 604 U.S. at 672. *Second*, a habeas petitioner must name the petitioner's *immediate* custodian—*i.e.*, the custodian who has actual

custody over the petitioner and can produce the "corpus." *Padilla*, 542 U.S. at 435. "Failure to name the petitioner's custodian as a respondent deprives federal courts of personal jurisdiction" needed to issue relief. *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994); *Padilla*, 542 U.S. at 444. Thus, a federal district court is wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined and the immediate custodian is not located. *Padilla*, 542 U.S. at 442-43. And a "judgment entered without personal jurisdiction over a defendant is void as to that defendant." *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 (D.C. Cir. 1987).

Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address "validity of a defense the State may, or may not, raise in a habeas proceeding" in part because "the underlying claim must be adjudicated in a federal habeas proceeding"); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a class-wide declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of release, 28 U.S.C. § 2241(a), not a declaration of legal rights that can later be enforced. *See Calderon*, 523 U.S. at 747 (1998); *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the "availability of a habeas remedy in another district ousted us of jurisdiction over an alien's effort to pose a constitutional attack . . . by means of a suit for declaratory judgment"); *Monk v. Sec. of Navy*, 793 F.2d 364, 366 (D.C. Cir. 1986) ("In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is 'in custody in violation of the

Constitution . . . of the United States,' . . . . This specific determination must override the general terms of the declaratory judgment . . . statute."). Here, Petitioner, who is confined in the Southern District of Florida cannot benefit from the *Bautista* decision and accordingly, this Court should give no weight to it when ruling on this habeas petition.

F. Petitioner's Attempts to Raise a Challenge to the Conditions of his Confinement are not a Proper Subject for Habeas.

It is well established that a § 2241 petition is not the vehicle for challenging conditions of confinement. *Vaz v. Skinner,* 634 Fed. Appx. 778, 781 (11th Cir. 2015). And, in any event, even if Petitioner established a constitutional violation, he would not be entitled to the relief he seeks because release from custody is not an available remedy for a conditions-of-confinement claim. *Id.* (internal citations omitted). Accordingly, Petitioner's reference to "inadequate medical care, lack of mental health support, failure to respond to emergencies, overcrowding, poor hygiene, and incidents of inappropriate conduct by detention personnel" should not be entertained by the Court. [DE 1, p. 7].

G. Petitioner's Due Process Rights have not been Violated.

Petitioner asserts in part that his detention is "excessive relative to any legitimate government objective" and that he has been detained for approximately four (4) months with no meaningful, individualized bond hearing pursuant to INA § 236(a). *See* [DE 1, ¶¶ 44-45]. The Court should reject such arguments because "detention during deportation proceedings is a constitutionally valid aspect of the deportation process." *See Demore v. Kim*, 538 U.S. 510 (2003). Additionally, an individualized bond hearing need not be conducted to determine individualized flight risk; instead, detention may be mandated to combat flight. *See id.* at 538 U.S. at 528. To the extent Petitioner relies on *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001) to support his claim that due process has not been afforded, such reliance is misplaced. *See* [DE 1, ¶ 41]. *Zadvydas* deals

with *post-removal order* immigration detention under 8 U.S.C. § 1231. Even if the *Zadvydas* framework did apply to Petitioner, his Petition would be premature as he has only been detained since October 1, 2025, which is less than the presumptively reasonable six-month period discussed in *Zadvydas*.

IV. CONCLUSION

Based upon the foregoing, the Petition should be denied as detention is lawful under § 8 U.S.C. § 1225(b)(2).

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Respectfully submitted,

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