

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

EZEQUIEL RODRIGUEZ
GONZALEZ,
Petitioner,

v.

KRISTI NOEM, ET AL.,
Respondents.

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Case No. CIV-26-00131-HE

**FEDERAL RESPONDENTS' RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

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NOW COME Respondents Secretary of Homeland Security Kristi Noem, U.S. Department of Homeland Security (DHS), Attorney General Pamela Bondi, Executive Office for Immigration Review (EOIR), and Enforcement and Removal Operations Acting Field Office Director Robert Cerna (collectively the “Federal Respondents”) who, for response to Petitioner Ezequiel Rodriguez Gonzalez’s Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Doc. 1] and the Court’s Order [Doc. 7] directing them to file an answer, motion, or other response, respectfully submit that they deny each and every allegation of the Petition except as may be specifically admitted herein. The Federal Respondents further submit that the Court should deny the relief requested in the Petition and should enter an order of dismissal.

I. Introduction:

Petitioner Ezequiel Rodriguez Gonzalez is a native and citizen of Mexico. Petition [Doc. 1] at 6, ¶ 17; Pet. Ex. 1 [Doc. 1-1] at 1; Att. 1 at 2, block 10. He entered the United States at an unknown place on an unknown date, without admission or parole by an immigration official. Pet. Ex. 1 [Doc. 1-1] at 1. He asserts that he has resided continuously in the United States since at least March 2004, and that he has lived in Norman, Oklahoma, for more than 21 years. Petition [Doc. 1] at 15-16, ¶¶ 47, 50.

He alleges that on or about September 12, 2025, agents of U.S. Immigration and Customs Enforcement (ICE) took him into custody and that he is detained at the Cimarron Correctional Facility in Cushing, Oklahoma. *Id.* at 15-16, ¶ 48. On that date, he was issued a Notice to Appear (NTA) charging him as removable pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA) (codified at 8 U.S.C. § 1182(a)(6)(A)(i)) as

an alien who is 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. Pet. Ex. 1 [Doc. 1-1] at 1.

On December 9, 2025, Petitioner filed a Form EOIR-42B Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents. Att. 1. A merits hearing on his Form EOIR-42B Application has been set for March 4, 2026, in the Aurora, Colorado, Immigration Court. Att. 2.

As detailed in his habeas corpus petition, through counsel he has made bond requests to the Immigration Court, seeking his release from the Cimarron Correctional Facility. An Immigration Judge (IJ) has declined to consider the bond requests. Petition [Doc. 1] at 17-18, ¶¶ 51-56.

He seeks habeas corpus relief in this Court, asserting that he is entitled to bond consideration and that his detention without a bond hearing violates his right to due process. *Id.* at 21-22, ¶¶ 63, 68.

II. Law and Argument:

A. Introductory notes on prior decisions by this Court.

The Federal Respondents are aware that the position they take in this response, *i.e.*, that 8 U.S.C. § 1225(b)(2)(A) and not § 1226(a) governs Petitioner's detention, is contrary to the position adopted by the Court in *Ramirez Rojas v. Noem*, No. CIV-25-1236-HE, 2026 WL 94641 (W.D. Okla. Jan. 13, 2026). The Court in *Ramirez Rojas* "agree[d] that § 1226(a), not § 1225(b)(2)(A)," governed the petitioner's detention under facts similar to

the facts presented in the case at bar. *Id.* at *1.¹ Notwithstanding *Ramirez Rojas* and other similar decisions by this Court and others, the Federal Respondents respectfully submit that the question is far from settled.

B. Petitioner is statutorily deemed to be an applicant for admission.

Turning to the substance of Petitioner's demands, he "seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days." Petition [Doc. 1] at 4, ¶ 9; *see also id.* at 23, subparagraph e (praying for issuance of "a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days"). His demand for a bond hearing turns on whether DHS/ICE may detain him under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A) or must instead proceed under the bond-eligible framework of § 1226(a).

In the INA, Congress established rules governing when certain aliens may be detained or removed. As relevant here, 8 U.S.C. § 1225 governs the processes for the detention and removal of "applicants for admission," a category of aliens. Section 1225(a)(1) defines which aliens are "applicants for admission," stating:

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 and including an alien who is brought to the United States after having been interdicted in international or United States waters) *shall be deemed for purposes of this chapter an applicant for admission.*

8 U.S.C. § 1225(a)(1) (emphasis added).

¹ The petitioner in *Ramirez Rojas* was a Guatemalan who was arrested by ICE officers during a traffic stop in September 2025. He had lived in the United States for almost two decades, was married, and had children who were U.S. citizens. 2026 WL 94641, at *1.

Congress “explicitly defined” the phrase “applicant for admission” as “[a]n alien present in the United States who has not been admitted or who arrives in the United States ...” *Gutierrez Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344, at *3 (W.D. Okla. Jan. 6, 2026) (quoting 8 U.S.C. § 1225(a)(1)). “Congress explicitly said that any alien ‘present in the United States who has not been admitted’ is deemed an ‘applicant for admission.’” *Id.* at *4. Under the plain language of § 1225(a)(1), an alien who is present in the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as having entered the United States without inspection is deemed an applicant for admission. *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302, at *7 (W.D. Okla. Dec. 26, 2025).

Petitioner is a citizen of Mexico and includes evidence that he was not admitted or paroled into the United States after inspection by an immigration official. Petition [Doc. 1] at 6, ¶ 17; Pet. Ex. 1 [Doc. 1-1] at 1; *see also* Fed. R. Civ. P. 10(c) (“A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.”). DHS charged him as removable under 8 U.S.C. § 1182(a)(6)(A)(i). Pet. Ex. 1 [Doc. 1-1] at 1. Congress has statutorily deemed and has explicitly defined Petitioner to be an “applicant for admission.” An alien who enters the United States without being formally admitted, and who concedes that he was not admitted, “fits neatly into the definition of an ‘applicant for admission.’” *Gutierrez Sosa*, 2026 WL 36344, at *3.

Petitioner’s pleading improperly grafts onto § 1225 qualifiers that are not in the statutory text, asserting that because he has been a “resident of Norman for over two decades” and is a “community member apprehended inside the United States,” the statute

should not apply to him. Petition [Doc. 1] at 2, ¶ 1; *see also id.* at 9, ¶¶ 32-33 (complaining that an immigration detention policy adopted in July 2025 “applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades”). However, “[n]othing in the language of § 1225 limits its operation to only those applicants for admission who are arriving.” *Montoya*, 2025 WL 3733302, at *7.

In sum, Petitioner “is an applicant for admission under the plain language of § 1225(a)(1) because he is present in the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.” *Id.* Mr. Rodriguez Gonzalez entered the United States without inspection, and § 1225(a)(1) plainly states that an “alien present in the United States who has not been admitted or who arrives in the United States ... shall be deemed for purposes of this chapter an applicant for admission.”

C. Petitioner is seeking admission.

By operation of law, an alien who is “applicant for admission” is necessarily “seeking admission.” *Gutierrez Sosa*, 2026 WL 36344, at *4.

Section 1225(a)(1) “deem[s]” “an alien present in the United States who has not been admitted ... an applicant for admission.” The statute doesn’t describe what the alien is doing. It imposes a status by operation of law.

Montoya, 2025 WL 3733302, at *8.

“The statute gives no temporal or geographic limitations on the status of being an applicant for admission.” *Id.* at *2. “All aliens ... who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be

inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). The word “otherwise” in § 1225(a)(3) “establishes that ‘aliens ... seeking admission’ is the category to which ‘applicants for admission’ belong.” *Montoya*, 2025 WL 3733302, at *8. “If ‘applicants for admission’ are subject to inspection because they fall within the broader class of those ‘seeking admission,’ then the statute necessarily treats ‘seeking admission’ as a condition that attaches to anyone deemed an ‘applicant for admission.’” *Id.*

The condition of “seeking admission” is statutorily imposed. “Seeking” does not describe the alien’s mindset or what he is doing. “The alien is ‘seeking admission’ in the same way the alien is ‘an applicant for admission’—by congressional decree.” *Id.* All “applicants for admission” are, by operation of statute, “seeking admission.” *Id.*²

Moreover, as a factual matter, it appears that Petitioner may be seeking admission. On December 9, 2025, he formally applied for cancellation of removal and adjustment of his status in the United States. Att. 1.³

D. Prior application of § 1226(a) does not dictate its application now.

Petitioner urges that his detention is “contrary to decades of agency practice

² See also *Gutierrez Sosa v. Holt*, 2026 WL 36344, at *4 (“Does anyone seriously think that Congress created a regime that rewards those aliens who evade deportation for long enough by making them no longer subject to automatic detention when caught? Such a perverse incentive structure surely wasn’t what Congress intended.”).

³ See *Poveda v. U.S. Atty. Gen.*, 692 F.3d 1168, 1182, n. 4 (11th Cir. 2012) (“The BIA considers an application for adjustment of status to be ‘a procedural mechanism by which an alien is assimilated to the position of one seeking to enter the United States.’” *Matter of Rainford*, 20 I. & N. Dec. 598, 601 (BIA 1992). This is because, like an alien seeking admission, an applicant for adjustment of status must show that he is admissible to the United States. See 8 U.S.C. § 1255(a.”); cf. *Del Carmen Duron v. Nielsen*, 491 F. Supp. 3d 256, 265 (S.D. Tex. 2020) (finding that an application for adjustment of status does not constitute an application for admission or qualify as seeking admission).

applying § 1226(a) to people like Petitioner.” Petition [Doc. 1] at 4, ¶ 8; *see also id.* at 8-10, ¶¶ 30-34 (discussing prior practice and current practice). However, a long-established agency practice does not justify a rule that denies statutory text its fairest reading. *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 329 (2015). Notwithstanding Petitioner’s argument that courts “have uniformly rejected DHS’s and EOIR’s new interpretation because it contravenes the plain text, structure, and purpose of the INA,” Petition [Doc. 1] at 14, ¶ 41, the courts are not uniform in their approach or analysis, and the prior agency practice does not compel a bond hearing in this instance.

The Fifth Circuit Court of Appeals recently discussed the evolution of federal immigration authorities’ detention practices; the effect of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA); the fact that “[f]rom 1997 to 2025, successive presidential administrations and many immigration judges treated unadmitted aliens as being subject to § 1226(a) rather than § 1225(b)(2);” and that the Board of Immigration Appeals (BIA) in July 2025 decided *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, “which reconsidered the statutory framework and concluded that aliens who enter the United States without inspection and admission are subject to mandatory detention under § 1225(b)(2).” *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *3 (5th Cir. Feb. 6, 2026). The Federal Respondents will not repeat the Fifth Circuit’s in-depth analysis here, but will instead point to some of *Buenrostro-Mendez*’s conclusions.

“Presence without admission deems the petitioners to be applicants for admission.” *Id.* at *4, citing 8 U.S.C. § 1225(a)(1). Section 1225(b)(2)(A) “unambiguously provides

for mandatory detention.” *Id.* “[N]either § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.”” *Id.*, quoting *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). “[I]f Congress had intended an alien ‘seeking admission’ to effectively mean ‘arriving alien,’ it would simply have said ‘arriving alien.’” *Id.* at *6.

On the matter of “the government’s longstanding practice,” the petitioners in *Buenrostro-Mendez* argued that the government had “for twenty-nine years, allowed illegal resident aliens, those present without having been admitted, to seek release on bond under § 1226(a) instead of detaining them pursuant to § 1225(b)(2)(A).” *Id.* at *8. The Fifth Circuit responded:

While that is true, the government’s past practice has little to do with the statute’s text. The text says what it says, regardless of the decisions of prior Administrations. Years of consistent practice cannot vindicate an interpretation that is inconsistent with a statute’s plain text. *See, e.g., Pereira v. Sessions*, 585 U.S. 198, 204, 138 S. Ct. 2105, 2111, 201 L.Ed.2d 433 (2018).

Id.

In *Pereira*, the Supreme Court considered whether notices to appear for removal proceedings under 28 U.S.C. § 1229(a) had to specify the time and place of the removal proceedings. Despite twenty-one years during which the government consistently omitted that information from its notices, the Supreme Court rejected that practice based on the statutory text. *Id.*, citing *Pereira*, 585 U.S. at 202, 205.

On the matter of detention and bond hearings, *Buenrostro-Mendez* held, “The same approach is appropriate here. Regardless of the government’s past practice and regardless of Congress’s silence on § 1225(b)(2)(A), the text controls.” *Id.*

In any event, the fact that prior Administrations “decided to use less than their full enforcement authority under § 1225(b)(2)(A) does not mean they lacked the authority to do more.” *Id.* In contrast to past practices by other Administrations, “the current Administration has chosen to exercise a greater portion of its authority by treating applicants for admission under the provision designed to apply to them.” *Id.* at *9.

Addressing the same former practice of granting bond hearings, the Honorable Jodi W. Dishman recently explained:

The initial decision to give bond hearings to applicants for admission explicitly reflected an exercise of agency discretion. And the statutory propriety of denying bond hearings under § 1225(b)(2)(A) went without judicial inquiry until now for the simple reason that “the judicial power of federal courts is constitutionally restricted to cases and controversies.” *Flast v. Cohen*, 392 U.S. 83, 94 (1968) (internal quotations omitted).

Montoya, 2025 WL 3733302, at *12 (internal footnote omitted).

Likewise, the Honorable Patrick R. Wyrick addressed the issue as follows:

Lastly, any long-standing agency practice of detaining aliens who entered the United States without inspection pursuant to § 1226 rather than § 1225(b)(2) can’t justify ignoring the law. A long-established practice does not justify a rule that denies statutory text its fairest reading, and rightly so. The Executive Branch’s past misreading (or flouting) of the law neither justifies nor compels this Branch to do the same, particularly where, as here, the Executive Branch has never offered a reasoned basis for its practice.

Gutierrez Sosa, 2026 WL 36344, at *5 (cleaned up).

E. The Court should deny Petitioner’s request for an order barring his transfer from the Western District of Oklahoma while the action is pending.

In his Prayer for Relief, Petitioner includes a request for an order that he “shall not be transferred outside the Western District of Oklahoma while this habeas petition is pending[.]” Petition [Doc. 1] at 23, subparagraph b. As a preliminary matter, the Court

has ordered the Respondents to file written notice at least 72 hours before moving Petitioner, regardless of whether the new location is within or beyond the territorial jurisdiction of the Western District of Oklahoma. Order [Doc. 7] at 2, ¶ 6. The Federal Respondents do not contest the Court's 72-hour directive but submit that the Court should deny Petitioner's request for a no-transfer order.

Congress has directed, "The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal." 8 U.S.C. § 1231(g)(1); *see also* 6 U.S.C. § 557 ("reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary" of Homeland Security). "Section 1231(g)(1) gives both 'responsibility' and 'broad discretion' to the Secretary 'to choose the place of detention for deportable aliens.'" *Geo Grp., Inc. v. Newsom*, 50 F.4th 745, 751 (9th Cir. 2022) (*en banc*) (quoting *Comm. of Cent. Am. Refugees v. INS*, 795 F.2d 1434, 1440 (9th Cir.), *amended by* 807 F.2d 769 (9th Cir. 1986)). ICE, a component of DHS, carries out the immigration detention function, and "there are significant fluctuations in the number and location of detained individuals, requiring ICE to maintain flexibility." *Id.* (internal quotation marks removed).

ICE has discretionary power to transfer aliens from one locale to another as it deems proper. *Van Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999). The discretionary decision to detain a foreign national in one State rather than another "is not reviewable by way of a habeas petition." *Tercero v. Holder*, 510 F. App'x 761, 766 (10th Cir. 2013).

DHS and ICE are afforded broad statutory authority to decide where an alien is

detained and, as one district court has explained, “*Courts* should not be micro-managing this issue.” *Candido v. Bondi*, No. 25-CV-867 (JLS), 2025 WL 3123696, at *2 (W.D.N.Y. Nov. 7, 2025) (emphasis in the original). “It is well established that jurisdiction attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change.” *Santillanes v. U.S. Parole Com.*, 754 F.2d 887, 888 (10th Cir. 1985). Regardless of where a detainee is housed, a district court retains jurisdiction over a properly filed habeas petition; therefore, there is no need for a court to interfere with DHS’s authority to “arrange for appropriate places of detention” under 8 U.S.C. § 1231(g)(1). *Dorval v. Barr*, 414 F. Supp. 3d 386, 396 (W.D. N.Y. 2019).⁴

F. The Court should deny Petitioner’s demand for production of documents.

Petitioner seeks an order compelling the production of “all documents related to Petitioner’s detention, including but not limited to, the I-213 - Record of Deportable/Inadmissible Alien, Form I-862 - Notice to Appear (NTA), I-200 –Warrant for Arrest of Alien, and I-286 – Notice of Custody Determination[.]” Petition [Doc. 1] at 23, subparagraph c.

Petitioner includes a copy of the Form I-862 - Notice to Appear (NTA) with his pleading. Pet. Ex. 1 [Doc. 1-1] at 1-3. He also includes a copy of the I-200 –Warrant for Arrest of Alien. *Id.* at 4-5. He asks the Court to order production of documents that are

⁴ See also *Chen v. Bondi*, Case No. CIV-25-1453-D (W.D. Okla.), Order (Dec. 9, 2025) [Doc. 19 therein] at 2 (“The Attorney General’s discretionary decision as to where to detain aliens pending removal or a decision on removal is not reviewable by this court on a habeas petition.”) (citing *Tercero*, 510 F. App’x at 766, and 8 U.S.C. § 1231(g)(1)); *Chan v. Bondi*, Case No. CIV-25-1412-JD (W.D. Okla.), Order (Dec. 9, 2025) [Doc. 17 therein] at 2 (same).

already in his possession and which he has placed in the record.

As for other documents he requests, he offers no explanation as to how they are arguably relevant to his habeas corpus claim. A request for production of “all documents related to” a broad range of general information is, under the federal discovery rules, vague and overbroad. *Benham v. Rice*, 238 F.R.D. 15, 19 (D.D.C. 2006), *on reconsideration in part*, No. CIV.A. 03-01127, 2007 WL 8042488 (D.D.C. Sept. 14, 2007); *Cardenas v. Dorel Juv. Grp., Inc.*, 232 F.R.D. 377, 381 (D. Kan. 2005).

G. The Court should deny Petitioner’s due process claim.

Demore v. Kim, 538 U.S. 510 (2003) held that mandatory detention pending removal from the United States does not violate due process. Detention during deportation proceedings is “a constitutionally valid aspect of the deportation process.” *Id.* at 523.

The detainee in *Demore* challenged his detention without an individualized bond hearing under § 1226(c). That provision, much like § 1225(b)(2)(A), mandates detention in certain circumstances while removal proceedings are pending. *Id.* at 527-28. The detainee in *Demore* argued that such detention was indefinite and thus violated the Due Process Clause. The *Demore* Court rejected that premise. Under § 1226(c), detention has “a definite termination point,” *i.e.*, when the “removal proceedings are completed[.]” *Id.* at 529. Thus, an alien in removal proceedings is not subject to indefinite detention.

Federal law authorizes Petitioner’s detention. He entered the United States without inspection, but the power to admit or exclude an alien is a sovereign prerogative. The Government therefore possesses the power to set the procedures to be followed while determining whether an alien should be admitted or excluded from the United States. *Dep’t*

of *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). Detention “assur[es] the alien’s presence at the moment of removal.” *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). In this context, courts “must take appropriate account of the greater immigration-related expertise of the Executive Branch, of the serious administrative needs and concerns inherent in the necessarily extensive ... efforts to enforce” the INA, and “the Nation’s need to ‘speak with one voice’ in immigration matters.” *Id.* at 700.

To prevail on his Fifth Amendment claim, Petitioner must show that his detention is not rationally related to a legitimate governmental purpose, or that the conditions of his detention are excessive in relation to that purpose. *Bahadorani v. Bondi*, No. CIV-25-1091-PRW, 2025 WL 3048932, at *5 (W.D. Okla. Oct. 31, 2025). Detention is rationally related to assuring an alien’s presence at the moment of removal. *Zadvydas*, 533 U.S. at 699. The Court’s conclusion in *Bahadorani* is applicable here: “Without (a lot) more factual development, Petitioner cannot make a showing satisfactory to this Court to demonstrate his Fifth Amendment rights have been injured.” 2025 WL 3048932, at *5.

H. Petitioner does not properly invoke this Court’s jurisdiction.

Petitioner’s jurisdictional statement is deficient. He asserts that this Court “has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).” Petition [Doc. 1] at 4, ¶ 11.

“The Suspension Clause provides that ‘[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.’” *Thuraissigiam*, 591 U.S. at 116, quoting U.S. Const., Art. I, § 9, cl. 2.

The Suspension Clause protects the writ as it existed in 1789 when the Constitution was adopted. *Id.*, citing *INS v. St. Cyr*, 533 U.S. 289, 301 (2001). It guards against arbitrary suspensions of the writ, because the Constitution’s framers were well aware that the writ was suspended with frequency in England in times of political unrest. The Suspension Clause was “designed to protect against these cyclical abuses” by ensuring that, except during periods of formal suspension, the Judiciary will have authority to issue writs of habeas corpus. *Boumediene v. Bush*, 553 U.S. 723, 745 (2008). Petitioner does not show how the writ of habeas corpus was understood at the time of the adoption of the Constitution, how that understanding applies to his claims, or how the Suspension Clause confers jurisdiction in this case.

As for Petitioner’s invocation of 28 U.S.C. § 1331, for federal question jurisdiction to exist “it must arise under a law of the United States.” *Morris v. City of Hobart*, 39 F.3d 1105, 1111 (10th Cir. 1994). Petitioner affirmatively asserts that his habeas corpus claim arises under a specific federal law: “28 U.S.C. § 2241(c)(5) (habeas corpus).” Petition [Doc. 1] at 4, ¶ 11. Section 2241(c)(5) provides that the writ of habeas corpus shall not extend to a prisoner unless “[i]t is necessary to bring him into court to testify or for trial.” 28 U.S.C. § 2241(c)(5). A writ issued pursuant to § 2241(c)(5) is a writ of habeas corpus ad testificandum, which “direct[s] the custodian of a desired witness who is incarcerated to bring such witness into court to give testimony.” *Gilmore v. United States*, 129 F.2d 199, 202 (10th Cir. 1942); *see also Clark v. Hendrix*, 397 F. Supp. 966, 969 (N.D. Ga. 1975), and *Davison v. Joseph Horne & Co.*, 265 F. Supp. 750, 754 (W.D. Pa. 1967).

It is axiomatic that a plaintiff, or in this case, a habeas corpus petitioner, is the master

of his claims, and decisions he makes about what to include in or omit from a pleading may be dispositive. *Bledsoe v. Vanderbilt*, 934 F.3d 1112, 1118-19 (10th Cir. 2019); *Wright v. Holmes*, No. CIV-25-1497-SLP, 2026 WL 243219, at *2 (W.D. Okla. Jan. 29, 2026); *Hickey v. GEO Lawton Corr. Rehab. Facility*, No. CIV-23-733-R, 2024 WL 3103323, at *1 (W.D. Okla. June 24, 2024). A court may not disregard the express allegations of a complaint and instead read between the lines to discern for itself what “should *really* be at issue.” *Bledsoe*, 934 F.3d at 1119 (emphasis in the original). A litigant is bound by his pleading choices, even if those choices prove unfruitful, and the Court is not free to substitute its judgment for what is actually pled. *Gay v. United Servs. Auto. Ass’n*, No. CIV-19-00755-PRW, 2021 WL 2392425, at *3, n. 18 (W.D. Okla. June 11, 2021); *Garcia v. W&W-AFCO Steel LLC*, No. CIV-19-1035-R, 2020 WL 2251661, at *1 (W.D. Okla. May 4, 2020).

Plaintiff expressly asserts habeas corpus jurisdiction under 28 U.S.C. § 2241(c)(5). That statute does not apply to this case.

Prayer for Relief

WHEREFORE, the Federal Respondents respectfully pray for an order of this Honorable Court denying the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Doc. 1] and all claims and demands therein, dismissing the action, and granting such other relief that the Court deems proper.

Respectfully submitted this 10th day of February, 2026.

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INDEX OF ATTACHMENTS

- Attachment 1: Form EOIR-42B Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents I/C/O Ezequiel Rodriguez Gonzalez (style of the case and first page only; PII redacted)
- Attachment 2: *In re Rodriguez Gonzalez, Ezequiel*, Case No.  Notice of Internet Based Hearing (January 28, 2026, setting a hearing for March 4, 2026)