

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

FRANCISCO GARNELO-REYES,

Petitioner,

v.

Case No.: 3:26-cv-155-WWB-LLL

WARDEN, BAKER CORRECTIONAL
INSTITUTION; FIELD OFFICE
DIRECTOR, Enforcement and Removal
Operations, U.S. Immigration and
Customs Enforcement, Jacksonville Field
Office; and U.S. DEPARTMENT OF
HOMELAND SECURITY,

Respondents.

_____ /

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

The Federal Respondents —Field Office Director, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE) and U.S. Department of Homeland Security— respond to Petitioner Francisco Garnelo-Reyes Petition for Writ of Habeas Corpus (Petition) (Doc. 1). The Court lacks jurisdiction here. In addition, Garnelo-Reyes' detention is lawful. Thus, the Court should deny the writ and dismiss this action.

PRELIMINARY STATEMENT

On December 25, 2025, Petitioner filed the instant Petition, challenging his detention, at the Baker Correctional Institution, which is now known as the North Florida Detention Center (NFDC), as unlawful. *See generally* Doc. 1. By Order dated February 2, 2026, this Court ordered service of the Petition and directed Respondents to respond within 30 days from of the date of the Order. Doc. 7. Because the decision to detain

Petitioner is not subject to review, the Court lacks jurisdiction to entertain the relief sought or, alternatively, Petitioner fails to state a claim upon which relief can be granted.

FACTUAL BACKGROUND

Petitioner is a native and citizen of Mexico. Doc. 1, ¶ 16 at p. 4. He entered the country at an unknown date and location. Exhibit 1 (Form I-213), at pp 2-3. Garnelo-Reyes has been encountered by the U.S. Border Patrol on eight separate occasions: in 1998, 2002, and 2006. *Id.* at p. 3. In each instance, Petitioner was granted voluntary departure to Mexico, allowing him to return to his country without formal removal proceedings. *See id.* at p. 2.

On November 24, 2025, Petitioner was encountered by U.S. Immigration and Customs Enforcement (ICE), following an arrest by Pinellas Park Police for driving with a suspended license suspended. Exhibit 1 at p. 2; Doc. 1, ¶ 17 at p. 4. Petitioner was transferred to ICE custody and has been detained at the NFDC. *Id.* at ¶ 18.

On December 2, 2025, Garnelo-Reyes was placed in removal proceedings with the issuance of a Notice to Appear, charging him with being 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 in violation of § 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA), as amended 8 U.S.C. § 1182(a)(6)(A)(i), and an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the 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 § 211(a) of the INA, in violation of §

212(a)(7)(A)(i)(I) of the INA, as amended 8 U.S.C. § 1182(a)(7)(A)(i)(I). Exhibit 1 at p. 3; Doc 1-9 at 4.

On December 18, 2025, the immigration judge denied Petitioner's request for bond due to lack of jurisdiction, pursuant to *Matter of Yajure Hurtado*. Doc. 1-8. Petitioner's next hearing is scheduled for March 25, 2026.

Legal Standard

Federal courts may grant writs of habeas corpus for a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021); *Martin v. Beto*, 397 F.2d 741, 749 (5th Cir. 1968).

Discussion

As explained below, the Court lacks jurisdiction. However, even if the Court disagrees, Garnelo-Reyes' claims fail on the merits.

A. Habeas Return on Detention

In a habeas case, the respondent "shall make a return certifying the true cause of the detention." 28 U.S.C. § 2243. ICE is detaining Garnelo-Reyes under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). Garnelo-Reyes is free to contend his detention under § 1225 is unlawful or argue he should instead be detained under § 1226(a). But § 1225(b)(2)—not § 1226—is the certified basis on which ICE is detaining Garnelo-Reyes.

B. Jurisdiction

The Federal Respondents acknowledge that the legal question in this case regarding the Court's jurisdiction, or lack thereof, pursuant 8 U.S.C. § 1252(g), substantially overlaps with the jurisdictional question in *Abughali v. Warden, North Florida Detention Center, et al.*, Case No. 3:25-cv-1086-WWB-SJH (Doc. 15, pp 4-6) (Feb. 2, 2026)). The Federal Respondents respectfully disagree with the Court's decision in *Abughali* regarding jurisdiction. However, in the interest of judicial economy and to expedite the Court's consideration of this matter, Federal Respondents make the following arguments for preservation purposes:

1. 8 U.S.C. § 1252(g) bars review of Garnelo-Reyes' claims. See *Exhibit 2, Abughali*, No. 3:25-cv-1086-WWB-SJH (Doc. 7 at p. 4-7) (M.D. Fla. Nov. 24, 2026) (redacted).¹

2. 8 U.S.C. § 1252(b)(9) bars review of these claims. *Id.* at 7-8.

C. Failure to Exhaust

Garnelo-Reyes has yet to exhaust his administrative remedies. DHS makes initial decisions about custody and bond—which an IJ may review. 8 C.F.R. § 1003.19(a). But to get a bond hearing, the alien (or his lawyer) must make an application to the IJ for bond redetermination. *Id.* § 1003.19(b)-(c). The IJ's bond redetermination is "separate and apart from" the removal proceedings. *Id.* § 1003.19(d). If the alien disagrees with the IJ's decision, he may appeal to the Board of Immigration Appeals ("BIA"). *Id.* § 1003.1(b)(7).

¹ Federal Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, Federal Respondents respectfully request that the Court suspend application of the rule in this instance. See M.D. Fla. Local R. 1.01(a)-(b); Fed. R. Civ. P. 1.

Even if the Court decides that it has jurisdiction over Petitioner's claim, it must still deny this Petition because Garnelo-Reyes has failed to exhaust his administrative remedies. Individuals "seeking habeas relief, including relief pursuant to § 2241, are subject to administrative exhaustion requirements." *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015) (internal citations omitted). While administrative exhaustion is not a jurisdictional requirement, it is still one that must be met. *Id.* The Eleventh Circuit explained that "courts may [not] disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense." *Id.*

Here, Garnelo-Reyes has not alleged that he sought review of his denial of bond. This moots Garnelo-Reyes' assertions related to being denied a bond. See *Juarez Alfredo v. Warden, Glades Cnty. Detention Ctr.*, No. 2:25-cv-00610-SPC-KCD (Doc. 5) (M.D. Fla. Oct. 17, 2025). To the extent that Garnelo-Reyes may argue futility in seeking review of denial of bond, he is mistaken. Futility is not a blank check to relieve Petitioner's duty to exhaust his remedies. Moreover, in the alternative, the immigration judge denied bond on the grounds that Petitioner was a flight risk. Under exceptional circumstances, courts may excuse an exhaustion requirement. See *Sanchez v. Warden, FCC Coleman - Low*, No. 5:23-CV-79-WFJ-PRL, 2023 WL 4489472, at *2 (M.D. Fla. July 12, 2023); *Faison v. Warden, FCC Coleman*, No. 5:23-CV-67-WFJ-PRL, 2023 WL 4489471 (M.D. Fla. July 12, 2023); *Vasquez v. Warden, FCC Coleman Low*, No. 5:22-CV-517-WFJ-PRL, 2023 WL 4157364, at *2 (M.D. Fla. June 23, 2023). No exceptional circumstances have been alleged here.

D. Garnelo-Reyes is lawfully detained pursuant to § 1225(b)(2).

Petitioner argues that he is not an arriving alien. Doc. 1, ¶ 6 at p. 2. At bottom, Garnelo-Reyes alleges ICE's decision to detain him under § 1225, rather than § 1226, violates his due process because he is not entitled to a custody determination, although he packages this claim as three separate counts.² See Doc. 1, pp. 7-9. These claims fail as a matter of law because he is lawfully detained pursuant to §1225(b)(2).

To interpret the relevant parts of the INA, courts first turn to the "plain meaning of the statute." *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). If the statutory text is clear, the analysis ends. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 674 (2020).

The statutory scheme in § 1225(a) provides: "An alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a); *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) falls under the § 1225(b)(2) catchall. *Jennings*, 583 U.S. at 287.

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the "alien shall be detained for a proceeding under section 1229a"—i.e., full removal proceedings—after "the examining immigration officer determines that

² In Count III, Petitioner contends he "suffers from serious accident-related injuries requiring surgery and is diabetic." Doc. 1 at ¶ 48 at p. 9. This contention lacks specifics; thus, the Federal Respondents simply cannot respond to such vague and generalized allegations. Further, Petitioner advised that he has diabetes but otherwise claimed to be in "good health." Exhibit 1 at p. 2.

an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Read plainly, these subsections “mandate detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE detained Garnelo-Reyes under § 1225(b)(2). The Parties do not dispute he entered the United States illegally and without any authorization. Garnelo-Reyes’ detention pending his removal proceedings is not unlawful; rather, it’s statutorily required. 8 U.S.C. § 1225(b)(2)(A); see *Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

Garnelo-Reyes does not argue § 1225(b)(2) does not apply to aliens—like him—who enter without inspection and are encountered after evading inspection for years. See *generally* Doc. 1. Nonetheless, the statutory language does not support this conclusion. The term alien is expressly contemplated by § 1225(a)(1)—defining applicants as a present alien “who has not been admitted or who arrives in the United States.” Where the statutory text is otherwise clear, courts cannot add words or make up exceptions. *King v. Burwell*, 576 U.S. 473, 486 (2015).

Sections 1225(a)(1) and (b)(2) are unambiguous. There are no geographic qualifiers or any time limitations imposed. 8 U.S.C. § 1225(b)(2). Notably, Congress included such time limitations in other parts of the same statute. For instance, 8 U.S.C. § 1225(b)(1)(A)(iii)(II)—enacted contemporaneously with § 1225(b)(2)—applies a two-year continuous physical presence requirement. When Congress includes language in one part of a statute but omits it in another, it does so intentionally. *E.g.*, *Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1168 (11th Cir. 2003). Under these principles, the Court cannot read an additional “place of detention” or “period of residence” requirement into

§ 1225(b)(2) when it simply isn't there. Short of legislating, the Court cannot impose limitations on § 1225(b)(2) that Congress did not include. See *Germain v. U.S. Att'y Gen.*, 9 F.4th 1319, 1325 (11th Cir. 2021).

As discussed, an alien's place of detention or period of residence is irrelevant under the plain language. What is relevant, however, is an alien's manner of entry. 8 U.S.C. § 1225(a)-(b). Congress members said as much when amending the INA. See *Sturgeon v. Frost*, 587 U.S. 28, 54 (2019) (stating "[t]he legislative history (for those who consider it) confirms, with unusual clarity, all we have said so far."). The statutory scheme that § 1225 and § 1226 replaced was structured so aliens who entered the United States undetected retained certain benefits—such as the availability of bond—where those who presented themselves at the border did not:

This subsection is intended to replace certain aspects of the current "entry doctrine," under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry. Hence, the pivotal factor in determining an alien's status will be whether or not the alien has been lawfully admitted.

H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Recognizing that such a scheme incentivized evasion over presenting oneself at a port of entry, Congress set out to restructure the law to distinguish between deportability—applicable to admitted aliens—and inadmissibility—applicable to those present without admission. *Id.* at 226. So, aliens who enter surreptitiously "will not be considered to have been admitted." *Id.* Garnero-Reyes' reading seeks to retroactively nullify this legislative fix and once again restore incentives to circumvent rather than comply with the INA.

While there is no binding precedent in the Eleventh Circuit, the overwhelming number of recent decisions in this District and around the country have been adverse to ICE's position. See *E.g.*, *Juan Miguel Gomez-Pena v. Secretary, DHS*, No. 3:25-cv-1287-MMH-MCR (Doc. 13) (M.D. Fla. Jan. 12, 2026); *Padilla Orellana v. Warden*, No. 2:25-cv-1195-SPC-NPM (Doc. 13) (M.D. Fla. Jan. 6, 2026); *Garcia Raya v. ICE*, No. 2:25-cv-1109-KCD-DNF (Doc. 7) (M.D. Fla. Dec. 22, 2025); *Melgar v. Secretary*, No. 2:25-cv-1002-JES-DNF (Doc. 12) (M.D. Fla. Dec. 16, 2025). However, there is a growing number of decisions in support of ICE's text-based argument including at least one recent decision in this District and one in the Southern District of Florida. See, *E.g.*, *Iraheta Morales v. Noem*, Case No. 25-62598-Civ-Singhal, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026); *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).³

³ See also *Chen v. Almodovar*, No. 25 CIV. 9670 (JPC), 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026); *Goyo Martinez v. Villegas*, No. 1:25-CV-256-H, 2026 WL 114418 (N.D. Tex. Jan. 15, 2026); *Cutiopala v. Noem*, No. 1:25-CV-00211-MAL, 2026 WL 113567 (E.D. Mo. Jan. 15, 2026); *Sanchez v. Soto*, No. CV 25-19082 (SDW), 2026 WL 125576 (D.N.J. Jan. 16, 2026); *Ordonez v. Frink*, No. 4:25-CV-06386, 2026 WL 143153 (S.D. Tex. Jan. 20, 2026); *Singh v. Noem*, No. CIV 25-1110 JB/KK, 2026 WL 146005 (D.N.M. Jan. 20, 2026); *Phurtskhvanidze v. Field Office Dir. of Enf't and Removal Operations*, No. 1:25-CV-827, 2026 WL 160833 (S.D. Ohio Jan. 21, 2026); *Espinoza Hernandez v. Olson*, No. 25-CV-1670-BHL, 2026 WL 161509 (E.D. Wis. Jan. 21, 2026); *Karastoian v. Bondi*, No. 5:25-CV-00233, 2026 WL 194391 (S.D. Tex. Jan. 22, 2026); *Benitez Reyes v. Johnson*, No. 1:26-CV-026-H, 2026 WL 274492 (N.D. Tex. Jan. 22, 2026); *Jandres-Ordonez v. Bondi*, No. 6:25-CV-084-H, 2026 WL 274493 (N.D. Tex. Jan. 23, 2026); *Weng v. Genalo*, No. 25 CIV. 09595 (JHR), 2026 WL 194248 (S.D.N.Y. Jan. 25, 2026); *Lopez v. Dir. of Enf't & Removal Operations*, -- F.Supp.3d --, No. 3:25-CV-1313-JEP-SJH, 2026 WL 261938 (M.D. Fla. Jan. 26, 2026); *Ramirez v. Holt*, No. 2:25-CV-00156-SCM, 2026 WL 226964 (E.D. Ky. Jan. 28, 2026); *Amaya-Velis v. Raycraft*, No. 4:26-CV-73, 2026 WL 214360 (N.D. Ohio Jan. 28, 2026); *Alvacora v. Olson*, No. 0:26-CV-00675-DMT-SGE, 2026 WL 220417 (D. Minn. Jan. 28, 2026); *Mejia Giron v. Noem*, No. 4:26-CV-00086, 2026 WL 252370 (S.D. Tex. Jan. 28, 2026); *Morales v. Noem*, -- F.Supp.3d --, No. 25-62598-CIV, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026); *Negrete*

Ramirez v. Noem, No. 1:25-CV-00206-CMS, 2026 WL 251725 (E.D. Mo. Jan. 30, 2026); *Higareda-Cano v. Noem*, No. 1:25-CV-225-H, 2026 WL 274495 (N.D. Tex. Jan. 30, 2026); *Hernandez Gomez v. Daley*, No. 2:25-CV-00150-SCM, 2026 WL 252496 (E.D. Ky. Jan. 30, 2026); *Perez Quintero, v. Francis*, No. 25-CV-10107 (MKV), 2026 WL 265921 (S.D.N.Y. Feb. 2, 2026); *Espinoza Lopez v. Noem*, No. 26 CIV. 00345 (JHR), 2026 WL 266597 (S.D.N.Y. Feb. 2, 2026); *Acosta v. Arteta*, No. 1:25-CV-9916 (MKV), 2026 WL 263470 (S.D.N.Y. Feb. 2, 2026); *N. v. Bondi*, No. 26-258 (PAM/DLM), 2026 WL 272403 (D. Minn. Feb. 2, 2026); *Martinez Rodriguez v. Warden, Bluebonnet Detention Facility*, No. 1:26-CV-044-H, 2026 WL 278020 (N.D. Tex. Feb. 3, 2026); *Guevara v. Easterwood*, No. 0:26-CV-00789-DMT-LIB, 2026 WL 278924 (D. Minn. Feb. 3, 2026); *Arana v. Arteta*, No. 1:26-CV-240-GHW, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026); *Singh v. Noem*, No. 1:26-CV-036-H, 2026 WL 306395 (N.D. Tex. Feb. 3, 2026); *Guzman Diaz, v. Noem*, No. 3:25-CV-3008-X-BN, 2026 WL 309938 (N.D. Tex. Feb. 5, 2026); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *Zhuang v. Bondi*, No. 1:25-CV-00201-CMS, 2026 WL 352872 (E.D. Mo. Feb. 9, 2026); *Vergara v. Noem*, No. 3:25-CV-2075-E (BT), 2026 WL 353026 (N.D. Tex. Feb. 9, 2026); *Perez Chavez v. Noem*, -- F.Supp.3d --, No. CV-26-00323-PHX-MTL (JFM), 2026 WL 381618 (D. Ariz. Feb. 9, 2026); *D.M.R.D. v. Andrews*, No. 1:26-CV-00081-WBS-CSK, 2026 WL 353405 (E.D. Cal. Feb. 9, 2026); *Perez Garcia v. Noem*, No. CV 26-0177, 2026 WL 373863 (W.D. La. Feb. 10, 2026); *Saamishvili v. Flanagan*, No. 25-CV-6178 (BMC), 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026); *Alvarado Quezada v. Francis*, No. 26 CIV. 387 (JPC), 2026 WL 380711 (S.D.N.Y. Feb. 11, 2026); *Cortez v. Lynch*, No. 1:25-CV-822, 2026 WL 82039 (S.D. Ohio Jan. 12, 2026); *Garibay-Robledo v. Noem*, -- F. Supp. 3d --, No. 1:25-CV-177-H, 2026 WL 81679 (N.D. Tex. Jan. 9, 2026); *Singh v. Noem*, No. 2:25-CV-00157-SCM, 2026 WL 74558 (E.D. Ky. Jan. 9, 2026); *Benitez v. Bradford*, No. 4:25-CV-06178, 2026 WL 82235 (S.D. Tex. Jan. 8, 2026); *Cruz Rodriguez v. Olson*, -- F. Supp. 3d --, No. 1:25-CV-12961, 2026 WL 63613 (N.D. Ill. Jan. 8, 2026); *D.M.R.D. v. Andrews*, No. 1:26-CV-00081-WBS-CSK, 2026 WL 61504 (E.D. Cal. Jan. 8, 2026); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683 (N.D. Tex. Jan. 7, 2026); *Naikpay v. Sukkar*, No. 2:25-CV-1167-KCD-DNF, 2026 WL 44820 (M.D. Fla. Jan. 7, 2026) (Dudek, J.); *Azizzadeh v. Rhoney*, No. 25-CV-1288 (JLS), 2026 WL 44324 (W.D.N.Y. Jan. 6, 2026); *Gutierrez Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344 (W.D. Okla. Jan. 6, 2026); *Parra v. Sec'y, DHS*, No. 2:25-CV-1116-KCD-DNF, 2026 WL 21243 (M.D. Fla. Jan. 5, 2026) (Dudek, J.); *Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411 (D. Neb. Dec. 29, 2025); *Zuniga v. Lyons*, No. 1:25-CV-221-H, 2025 WL 3755126 (N.D. Tex. Dec. 29, 2025); *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Pastor v. Dir. of Detroit Field Off.*, No. 4:25-CV-02761, 2025 WL 3746495 (N.D. Ohio Dec. 24, 2025); *Masis Lucero, v. Field Office Director of Enforcement and Removal Operations*, No. 1:25-CV-823, 2025 WL 3718730 (S.D. Ohio Dec. 23, 2025); *A.M. v. Joyce*, No. 2:25-CV-00615-LEW, 2025 WL 3706922 (D. Me. Dec. 22, 2025); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Rivera Hernandez v. Noem*, No. 9:25-CV-00326, 2025 WL 3754434 (E.D. Tex. Dec. 19, 2025); *Zapata v. Chestnut*, No. 1:25-CV-01922-WBS-CKD, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *Bartolon v. Bondi*, No. 1:25-CV-747, 2025 WL 3674604 (S.D. Ohio Dec. 18,

The Federal Respondents acknowledge there is clearly a split amongst district courts across the country on applying § 1225 or § 1226. Currently, there are active appeals regarding this issue in the Eleventh Circuit, see *Hernandez Alvarez v. Warden, Federal Detention Center Miami et al.*, No. 25-14065 (11th Cir.) and *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, No. 25-

2025); *E.R.J.B. v. Wofford*, No. 1:25-CV-01843-WBS-SCR, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, No. 1:25-CV-01904-WBS-CKD, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Padilla v. Galovich*, No. 25-CV-865-JDP, 2025 WL 3640960 (W.D. Wis. Dec. 16, 2025); *Coronado v. Sec'y, DHS*, No. 1:25-CV-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Liang v. Almodovar*, No. 1:25-cv-09322, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *P. B. v. Bergami*, No. 3:25-CV-02978-O, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Delgado v. Noem*, No. 9:25-CV-00329, 2025 WL 3639439 (E.D. Tex. Dec. 12, 2025); *Garcia v. U.S. Attn'y Gen.*, No. 2:25-CV-1053-KCD-DNF, 2025 WL 3537592 (M.D. Fla. Dec. 10, 2025) (Dudek, J.); *Rodriguez v. Noem*, No. 9:25-CV-00320, 2025 WL 3639440 (E.D. Tex. Dec. 10, 2025); *Oliveria v. Albarran*, No. 1:25-CV-01760 WBS AC, 2025 WL 3525923 (E.D. Cal. Dec. 9, 2025); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *Suarez v. Noem*, No. 1:25-cv-00202-JMD, 2025 WL 3312168, at *2-3 (E.D. Mo. Nov. 28, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284, at *1-5 (E.D. Cal. Nov. 17, 2025); *Manzo Valencia v. Chestnut*, No. 1:25-cv-01550 WBS JDP, 2025 WL 3205133, at *1-4 (E.D. Cal. Nov. 17, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 WL 3199872, at *4-9 (C.D. Cal. Nov. 12, 2025); *Montoya Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, at *3-7 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *2-5 (E.D. Mo. Nov. 10, 2025); *Oliveira v. Patterson*, No. 6:25-cv-01463-DCJ-DJA, 2025 WL 3095972, at *2-6 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, *2-6 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, at *2-10 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H (Doc. 9) (N.D. Tex. Oct. 24, 2025); *Kum v. Ross*, No. 6:25-cv-00451-DCJ-CBW, 2025 WL 3113646, at *1-2 (W.D. La. Oct. 22, 2025); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351, at *4-9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228 at *4-5 (S.D. Cal. Sept. 24, 2025).

14075 (11th Cir.),⁴ and active appeals in several other circuits, *Martinez v. Hyde*, No. 25-1902 (1st Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Cortes Alonzo v. Noem*, No. 25-7348 (9th Cir.).⁵ Also, on February 6, 2026, the Fifth Circuit decided in favor of the Federal Respondents in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026), concluding “the government’s position is correct,” reversing “the district courts’ orders to provide petitioners with bond hearings or release them.”⁶

Although Garnelo-Reyes contends his detention under § 1225 is improper because he is not entitled to a custody hearing, he would be entitled to a custody hearing if he were detained under § 1226(a). See generally Doc. 1. But Garnelo-Reyes has not meet his burden to establish detention under § 1226 should apply to him. Section 1226 is far broader than § 1225. Specifically, § 1226 applies to any “alien.” 8 U.S.C. § 1226(a). An “alien” is “any person not a citizen or national of the United States.” *Id.* § 1101(a)(3). Meanwhile, the phrase “applicant for admission” in § 1225(b)(2) has distinct meaning, and not every single alien entering without inspection falls under this provision. Rather, the facts and circumstances concerning Garnelo-Reyes demonstrate he is an applicant for admission under § 1225(b)(2).

⁴ See *Hernandez Alvarez v. Warden, Federal Detention Center Miami, et al.*, Case No. 1:25-cv-24806-KMW (S.D. Fla. Oct. 27, 2025); *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, Case No. 1:25-cv-24820-KMW (S.D. Fla. Oct. 27, 2025).

⁵ See *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Pizzaro Reyes v. ERO*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025).

⁶ *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025).

Garnelo-Reyes illegally entered the United States, according to him, over a decade ago. Doc. 1, ¶ 16 at p. 4. He has no permission or status to remain in this country. So, it's undisputed Garnelo-Reyes has not been admitted to the United States.

Due to Garnelo-Reyes' unlawful immigration status, ICE is pursuing removal proceedings. Garnelo-Reyes has not stipulated that he is removable; nor has he indicated he will not contest removal. At any point, Garnelo-Reyes can seek release from detention to depart the United States voluntarily. 8 U.S.C. § 1229c(a). But again, there is no indication he has any intention of doing so. Everything suggests Garnelo-Reyes will not agree to leave.

Yet, he has no status and was never admitted to the United States. Put differently, Garnelo-Reyes must be an applicant for admission if he wants to stay here. *Vargas Lopez*, 2025 WL 2780351, at *9 (stating petitioner "wishes to stay in this country. This makes [him] an 'applicant for admission,' consistent with the conclusion of the BIA in *Hurtado* and *Jennings*."). The alternative would be seeking an order to somehow remain unlawfully in the United States. *Id.* (stating that petitioner "illegally remained in this country for years does not mean that he is suddenly not an 'applicant for admission' under § 1225(b)(2)."); *Hurtado*, 29 I&N at 221 (stating "[i]f he 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?"). At bottom, unless Garnelo-Reyes wants to leave, he is either an applicant for admission or seeking to remain here illegally.

To be clear, any alien intending to stay in the United States on any permanent basis must be admitted even if that's ten years after arriving. In the context of immigration law, "admission" is not like sneaking into a second showing at the movie theater where

entry is de facto admission. Rather, this is a legal term of art. *Matter of Garnelo-Reyes Losa*, 25 I. & N. Dec. 734, 743 n.6 (BIA 2012) (noting “seeks admission” used by Congress “as a term of art”). The terms “admission” or “admitted” here mean “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A).

Congress knows how to use a term of art. *E.g.*, *FAA v. Cooper*, 566 U.S. 284, 292 (2012) (stating “it is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.” (cleaned up)). Garnelo-Reyes may have been living in the United States illegally for several years; but, he was never admitted—which is what makes his presence unlawful in the first instance. 8 U.S.C. § 1182(a)(6)(A)(i) (inadmissibility for presence “without being admitted”). The INA treats aliens as seeking admission even if they entered illegally and never formally applied. 8 U.S.C. § 1225(a)(1); *Garnelo-Reyes Losa*, 25 I. & N. Dec. at 743 n.6 (Unlawful entrants “deemed *constructive* applicants for admission by operation of” § 1225(a)(1)). Legislative word choices—especially terms of art—must have meaning. Congress chose to define “applicants for admission” as “[a]n alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1).

The recent enactment of the Laken Riley Act bolsters this conclusion. See Pub. L. No. 119-1, 139 Stat. 3 (2025). There, the categories of individuals subject to mandatory detention expanded to include those who entered the United States and were charged as inadmissible under § 1182(a)(6)(A)(i) or (a)(7) and have committed—or been charged or convicted of—certain specified crimes. See 8 U.S.C. § 1226(c)(1)(E). Were “applicant for

admission” under § 1225 interpreted as narrow as Garnelo-Reyes would like, then there would be no need to pass Laken Riley. Those aliens now covered by § 1226(c)(1)(E) would have already been subject to mandatory detention. Even if there are redundancies, those “are common in statutory drafting” and provide no “license to rewrite or eviscerate another portion of the statute contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 229 (2020) (stating “[t]he Court has often recognized: Sometimes the better overall reading of the statute contains some redundancy.” (cleaned up)).

Likewise, ICE’s position has been consistent since detaining Garnelo-Reyes. ICE initiated removal proceedings are under § 1229a—not § 1225 or § 1226. When ICE detained Garnelo-Reyes, it did so under the provision tailored to his circumstances (*i.e.*, § 1225(b)(2)).

Finally, the fact that longstanding practice may have differed is not dispositive. The Constitution empowers the Judiciary to exercise judgment regarding the interpretation of laws independent from the political branches. U.S. Const. art. 3, § 2, cl. 1; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). The question for this Court is not ICE’s historical practice; instead, the inquiry is the correct statutory interpretation. As discussed, the best reading of the INA is what its words say—confirming ICE may detain Garnelo-Reyes under § 1225(b)(2). As explained, Garnelo-Reyes’ detention under § 1225(b)(2) is lawful. The INA mandates his detention.

CONCLUSION

Based on the foregoing reasons and citations of authority, the Court should deny the instant Petition and dismiss this action.

Dated: March 5, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 5, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send notice of filing and a downloadable copy of the filed document to the following CM/ECF participant listed below:

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Exhibit Index

- 1 Form I-213
- 2 *Abughali v. Warden, North Florida Detention Center, et al.*,
Case No. 3:25-cv-1086-WWB-SJH (Doc. 7) (M.D. Fla.) (redacted)