UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 26-20530-CIV-ALTONAGA

YUNEY LORENZO LOPEZ OTERO,

Petitioner,

v.

MIAMI IMMIGRATION AND CUSTOMS ENFORCEMENT FIELD OFFICE DIRECTOR, et al.,

Respondents.
_____/

RESPONDENTS' RESPONSE IN OPPOSITION TO THE PETITION FOR WRIT OF HABEAS CORPUS

Respondents, by and through the undersigned Assistant United States Attorney, submit the following response in opposition to the Petition for Writ of Habeas Corpus [DE 1] (Petition). For the reasons set forth below, the Petition should be denied.[1]

INTRODUCTION

By way of the Petition, Petitioner, Yuney Lorenzo Lopez Otero, in relevant part, asks this Court to [i]ssue a writ of habeas corpus because his detention has become unconstitutionally

[1] Respondents recognize that courts in this District have rejected similar arguments in granting habeas petitions. See, e.g., *Alvarez Puga v. Assistant Field Office Director Krome*, et al., No. 25-24535-CIV-ALTONAGA; *Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ; *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS; *Hernandez Alvarez v. Acting Warden Roger Morris*, et al., Case No. 25-24806-CIV-WILLIAMS; *Cerro Perez v. Parra*, et al., Case No. 25-24820-CIV-WILLIAMS; *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN; *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA; *Martinez v. Field Off. Dir.*, No. 25-26026-CIV-LEIBOWITZ; *Espinal Encarnacion v. ICE Field Office Director*, et al., Case No. 25-61898-CIV-DAMIAN; *Ocegueda Gonzalez v. Noem, et al.*, Case No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH; *Acosta v. Ripa*, et. al., Case No. 25-62360-CIV-DIMITROULEAS, and *Fuentes Granados v. Secretary of Homeland Security*, Case No. 26-60020-CIV-SMITH.

prolonged. Petition ¶ 8. However, petitioner's detention is lawful under 8 U.S.C. § 1225(b)(2)(A).

Section 1225(b)(2)(A) mandates detention for "an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Pursuant to § 1225(a), "[a]n 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)(1). Petitioner admits that he illegally entered the U.S. on or about May 20, 2022, and remains without authorization. *See* Exh. A, Form I-213, Record of Deportable/Inadmissible Alien, dated August 1, 2025. Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.[2]

FACTUAL BACKGROUND

The Petitioner, Yuney Lorenzo Lopez Otero, (Petitioner), is a native and citizen of Cuba, who arrived in the United States on May 20, 2022, near Del Rio, Texas. *See* Exh. A. On May 26, 2022, Petitioner was paroled due to detention capacity. *See* Exh. A. *See also*, Exh. C, NTA, dated August 5, 2025. On August 20, 2023, a Broward County Circuit Court Judge entered an Agreed Final Judgment of Injunction for Protection Against Stalking, against Petitioner. *See* Exh. D, Declaration of Deportation Officer Vivian Delgado. The final judgment states that Petitioner denied the moving party's allegations but had no objection to the injunction being issued. *See* Exh. D. The court made no findings as to whether violence or threat of violence had occurred. *See* Exh. D. The injunction was in effect until August 30, 2025. *See* Exh. D. On October 14, 2023, Petitioner

[2] Should the court order a hearing under INA 236, Respondents reserve the right to argue the Laken Riley Act under INA 236(c) before the Immigration Court in the first instance.

was arrested and charged with no valid driver's license. *See* Exh. A. On February 26, 2024, adjudication was withheld on this charge. *See* Exh. A.

On July 31, 2025, Miami Enforcement and Removal Operations (ERO) encountered Petitioner after he was arrested by the Hollywood Police Department, for grand theft- property value $750-$5k; the charges for which are still pending. *See* Exh. A. On this same date, ERO issued an immigration detainer against Petitioner. *See* Exh. A. *See also*, Exh. B, Form I-200, Warrant for Arrest of Alien, dated, July 31, 2025. On August 4, 2025, ERO took Petitioner into custody and transferred him to the Broward Transitional Center (BTC) located in Pompano Beach, Florida. *See* Exh. D, Declaration of DO Delgado. *See also*, Exh, E, Detention History.

On August 5, 2025, ERO issued and served Petitioner a Notice to Appear (NTA), pursuant to section 240 of the Immigration and Nationality Act (INA). *See* Exh. C, NTA, dated August 5, 2025. The NTA charged Petitioner with inadmissibility under section 212(a)(7)(A)(i)(I) of the INA, as an alien present in the United States not in possession of valid entry documents as required under the regulations issued by the Attorney General. *See* Exh. C. On August 10, 2025, ERO initiated removal proceedings by filing the NTA with the Executive Office for Immigration Review (EOIR). *See* Exh. D.

On August 25, 2025, Petitioner attended his initial master calendar hearing before the immigration court, and his case was reset to September 30, 2025, to allow him time to file an application for relief. *See* Exh. D. On September 29, 2025, Petitioner filed an application for relief with the EOIR. *See* Exh. D. On September 30, 2025, the case was reset for a hearing on the merits of Petitioner's application for relief. *See* Exh. D. On November 4, 2025, Petitioner, through his attorney, filed a Motion to terminate, which was denied at the hearing held on November 6, 2025. *See* Exh. D. Hearings held on November 6, 2025, December 8, 2025, January 7, 2026, and January

28, 2026, have all been reset for various reasons. *See* Exh. D. Petitioner is now scheduled for an individual merits hearing before an Immigration Judge on March 31, 2026, at 8:30 A.M. *See* Exh. D. Petitioner has a Form I-485, Application to Register Permanent Residence or Adjust Status, pending with the United States Citizenship and Immigration Services (USCIS). *See* Exh. D.

To date, Petitioner remains in ICE custody at BTC, located in Pompano Beach, Florida, as an applicant for admission who is seeking admission, pursuant to section 235(b)(2)(A) of the INA. *See* Exh. D. *See also*, Exh. E.

ARGUMENT

I. Improper Parties-Defendant Must Be Dismissed

As a preliminary matter, Petitioner has named several improper parties to this suit. Petition, ¶¶ 18-23. A writ of habeas corpus should "be directed to the person having custody of the person detained." 28 U.S.C. § 2243. In cases involving physical confinement, Supreme Court precedent confirms that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004).

Petitioner is detained at the Broward Transitional Center, a detention facility in Broward County, Florida. His immediate custodian is Acting Field Office Director Carlos Nunez. Accordingly, the only proper respondent to this case is Mr. Nunez in his official capacity. He should be substituted as the sole respondent to this action and all other named respondents should be dismissed. *See id.* at 435 ("[I]n habeas challenges to present physical confinement—'core challenges'—the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."); *see also Masingene v. Martin*, 424 F. Supp. 3d 1298, 1300 (S.D. Fla. 2020) (Williams, J.) (citing

Padilla for the proposition that the sole proper respondent to a habeas petition is the official who has custody over the petitioner).

II. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of § 1225(b)(2), the Government is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) ("Our analysis begins and ends with the text.").

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) deems all aliens who either "arrive[] in the United States" or who are "present in the United States [and] who ha[ve] not been admitted" to be "applicant[s] for admission." 8 U.S.C. § 1225(a)(1). And "admission" under the Immigration and Nationality Act ("INA") means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien's presence in the United States or the alien's distance from the border.

In turn, § 1225(b)(2) provides that "an alien who is an applicant for admission" "shall be detained" pending removal proceedings if 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). The statute's use

of the term "shall" makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien's presence in the country or where in the country the alien is located. Therefore, the statute's plain text mandates that the Government detain all "applicants for admission" who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was "present in the United States," and there is no dispute that he has "not been admitted." 8 U.S.C. § 1225(a); *See* Exh. A. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner "be detained for a proceeding under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission under § 1225(b)(2) are seeking to be legally admitted into the United States.

As explained above, Petitioner is an "applicant[] for admission" under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an "applicant for admission" *is* necessarily "seeking admission." Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to withdraw their application for admission and depart from the United States voluntarily, is "seeking admission," i.e., seeking legal authority to remain in the United States.

1. The "seeking admission" clause does not negate or otherwise limit the statutorily defined term "applicant for admission".

Section 1225(b)(2) requires the detention of an "applicant for admission, if the examining 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). The statutory text and context show that being an "applicant for admission" is a means of "seeking admission"—no additional

affirmative step is necessary. In other words, every "applicant for admission" is inherently and necessarily "seeking admission," at least absent a choice to pursue voluntary withdrawal of their application for admission.

For example, § 1225(a) provides that "[a]ll aliens … who are applicants for admission *or otherwise* seeking admission or readmission … shall be inspected." 8 U.S.C. § 1225(a)(3) (emphasis added). The word "[o]therwise' means 'in a different way or manner[.]'" *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster's Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) ("or otherwise" means "the first action is a subset of the second action"). Being an "applicant for admission" is thus a particular "way or manner" of seeking admission, such that an alien who is an "applicant for admission" *is* "seeking admission" for purposes of § 1225(b)(2)(A).[3] No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws"). Accordingly, § 1225(b) unambiguously provides that an alien who is an "applicant for admission" is "seeking admission," even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

[3] As § 1225 shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission," not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not "applicants for admission" because they are already admitted, but they still may be deemed to be "seeking admission" in some circumstances. *See* 8 U.S.C. § 1103(A)(13)(C).

As explained above, an "applicant for admission" is "seeking admission" under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that "is not a license to rewrite" § 1225 "contrary to its text." *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) ("sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance" especially when "the arguably redundant words that the drafters employed … are functional synonyms" (alterations accepted and emphasis in original)).

"The canon against surplusage is not an absolute rule." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). "Redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication." *Barton*, 590 U.S. at 239. "[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Id.* Thus, as the Supreme Court explained in *Barton*, "[s]ometimes the better overall reading of a statute contains some redundancy." *Id.*

Moreover, "the surplusage cannon … must be applied with statutory context in mind" and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

3. Applicants for admission are seeking admission when they seek to lawfully remain in the United States.

Even if this Court finds that "seeking admission" requires some separate affirmative conduct by the alien, an applicant for admission who attempts to avoid removal from the United States, rather than trying to voluntarily withdraw their applicant for admission for admission and depart the United States, is "seeking admission."

Section 1225(b)(2)(A) applies to an alien who is present in the United States unlawfully, regardless of how long the alien has been in the United States. Although the alien may not have been affirmatively seeking admission during those years of illegal presence, § 1225(b)(2) is not concerned with the alien's pre-inspection conduct. Rather, the statute's use of present tense language ("seeking" and "determines") shows that its focus is a specific point in time—when "the examining immigration officer" is making a "determin[ation]" regarding the alien's admissibility. 8 U.S.C. § 1225(b)(2)(A). At *that* point, the alien is "seeking" admission into the United States, and this is a continuing application. *See* The American Heritage Dictionary of the English Language (defining "seek" and "seeking" as "to endeavor to obtain"). If it were otherwise, the applicant would not attempt to show that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). That inference is confirmed by § 1225(a)(4), which authorizes an alien to withdraw their application for admission and voluntarily "depart immediately from the United States." 8 U.S.C. § 1225(a)(4). An applicant who forgoes that statutory option and instead endeavors to prove admissibility when placed in § 240 removal proceedings by DHS—proceedings in which the alien has the "burden of establishing that [he] is clearly and beyond a doubt entitled to be admitted," *id.* § 1229a(c)(2)(A)—is endeavoring to obtain admission to the United States in the same way someone who is encountered just after crossing the border is attempting to obtain admission to the United States. Nevertheless, the Respondents' position

remains: mere presence in the United States, after entering without being admitted, renders an alien an "applicant for admission" who is subject to mandatory detention.

C. The Government's Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly, the Government's reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to a result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA's prior framework, which distinguished between aliens based on physical "entry," had

> the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection … were subject to mandatory custody.

Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") ("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").

Congress discarded that regime through enactment of IIRIRA. Among other things, that law had the goal of "ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, IIRIRA replaced the prior focus on physical "entry" and instead made lawful "admission" the governing touchstone. IIRIRA defined "admission" to 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) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the "pivotal factor in determining an alien's status" would be "whether or not the alien has been *lawfully* admitted." House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner's interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter

with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner's interpretation. *King*, 576 U.S. at 492 (rejecting "petitioners' interpretation because it would … create the very [thing] that Congress designed the Act to avoid").

The Government's reading, on the other hand, is true to Congress's intent and should be adopted.

D. The Government's Reading Accords with *Jennings*.

The Government's interpretation is consistent with the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to "impos[e] an implicit 6-month time limit on an alien's detention" under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with the Government's reading, the Court recognized in its description of § 1225(b) that § "1225(b)(2) …. serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* at 287.

E. Under *Loper Bright*, the Statute Controls, Not Prior Agency Practice

Any argument that prior agency practice applying § 1226(a) to Petitioner is unavailing because under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 411 (2024) (overturning *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984)), the plain language of the statute and not prior practice controls. *Hurtado*, 29 I. & N. Dec. at 225–26. In overturning *Chevron*, the Supreme Court recognized that courts often change precedents and "correct[] our own mistakes." *Loper Bright*, 603 U.S. at 411. *Loper Bright* overturned a decades old agency interpretation of the Magnuson-Stevens Fishery Conservation and Management Act that itself predated IIRIRA by

twenty years. *Id.* at 380. Thus, longstanding agency practice carries little, if any, weight under *Loper Bright*.

III. Petitioner's Due Process Claims Fail

Petitioner's constitutional claims fail as a matter of law. Mandatory detention under § 1225(b) has repeatedly been upheld as constitutionally permissible. *See Jennings v. Rodriguez*, 583 U.S. at 299–301. The Fifth Amendment does not require bond hearings for noncitizens detained pursuant to valid statutory authority, nor does Petitioner possess a protected liberty interest in release on bond where Congress has mandated detention. The Due Process Clause does not prohibit Congress from imposing categorical detention rules in the immigration context. *See Demore v. Kim*, 538 U.S. 510, 528 (2003).

Petitioner's reliance on *Zadvydas v. Davis* is misplaced. To the extent that Petitioner argues that his detention violates his Due Process rights, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), this Court should reject that claim because *Zadvydas* governs post-removal-order detention under § 1231, not pre-removal detention under § 1225.

IV. Petitioner Failed to Exhaust His Administrative Remedies.

The Court should dismiss the petition for writ of habeas corpus for lack of jurisdiction as Petitioner has failed to exhaust administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

Petitioner has yet to request an individualized bond hearing in front of an immigration judge. Therefore, Petitioner has not availed himself of the administrative remedies available to him.

V. Petitioner's Request to Adjudicate His I-485 Petition For Permanent Residency Must Be Dismissed

Separately, Petitioner's claim for a Writ of Mandamus is not properly before the Court and should also be dismissed. Petition ¶45-58; ¶78-79.

Habeas actions and non-habeas actions have different filing fee requirements, different pleading standards, and different substantive standards, it is generally inappropriate to bring a hybrid action asserting both habeas and non-habeas claims in one case. *King v. Carlton*, No. 21-cv-21634, 2021 WL 1738766, at *2 (S.D. Fla. May 3, 2021) (Bloom, J.) (finding that petitioner could not circumvent filing fee requirements by filing a "joint or hybrid" habeas action); accord *Burnam v. Marberry*, 313 F. App'x 455, 456 n.2 (3d Cir. 2009) (noting that the district court should not have considered habeas claims and claims under the Privacy Act and Administrative Procedures Act in a single case); *Malcom v. Starr*, No. 20-cv-2503, 2021 WL 931213, at *2 (D. Minn. Mar. 11, 2021) ("As many other cases from this District have noted, habeas petitions and civil complaints have different and incompatible rules regarding service of process, discovery, and even filing fees."). Petitioner did not pay the required filing fee for any non-habeas claims. *See* DE 1 ($5.00 filing fee receipt). The statute governing filing fees in district court clearly states: "The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of $350, except that on application for a writ of habeas corpus the filing fee shall be $5." 28 U.S.C. § 1914(a). "The payment of the $5 habeas filing fee relegates this action to habeas relief only. One cannot pay the minimal habeas fee and pursue non-habeas relief." *Ndudzi v. Castro*, No. 20-CV-0492,

2020 WL 3317107, at *2 (W.D. Tex. June 18, 2020). Here, habeas is an adequate remedy through which Petitioner can challenge his detention, but not an appropriate remedy to challenge the adjudication of his I-485 application for permanent residency.

CONCLUSION

For the reasons set forth above, Petitioner's detention is lawful and the Petition for Writ of Habeas Corpus should be denied.

Dated: February 2, 2026.

Respectfully submitted,

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