UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:26-cv-60220-MD

WILIAM ABNER MAZARIEGOS-LOPEZ,

Petitioner,

vs.

PAMELA BONDI ET. AL.,

Respondents.
_____/

RESPONDENTS' RETURN/RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF FACT AND LAW IN SUPPORT OF SAME

Respondents[1] file this Return to Petitioner's Petition for Writ of Habeas Corpus [DE 1] (hereinafter the "Petition"). Initially, the Court should either dismiss or transfer this action to the Middle District as it lacks jurisdiction because Petitioner is not detained in this District. Moreover, this action should also be dismissed on the merits as Petitioner is properly detained pursuant to § 8 U.S.C. § 1225(b) and because the Court lacks jurisdiction pursuant to §§ 1252(b)(9) and 1252(g).

I. FACTUAL BACKGROUND

Petitioner, William Abner Mazariegos Lopez (Petitioner), is a native and citizen of Guatemala. *See* D.E. 1-4 (Record of Deportable/Inadmissible Alien, October 1, 2021). On or about October 1, 2021, Petitioner, then an unaccompanied fourteen-year-old minor, was encountered by

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), 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 admits to being detained at Glades Detention Center, which is located in Moore Haven, Florida, and names the warden of that institution as a respondent. DE 1 ¶¶ 1, 16 and 18. Accordingly, respondents Pamela Bondi, Kristi Noem, Todd M. Lyons, Juan Agudelo, and Cynthia Lawson-Swain are not Petitioner's immediate custodians. Therefore, they should be dismissed as improper parties.

Customs and Border Protection (CBP) agents, who determined that Petitioner had unlawfully entered the United States at a time and place other than as designated by the U.S. Secretary of Homeland Security. *Id.* CBP determined that Petitioner was inadmissible to the United States in violation of section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA). *Id.* CBP detained Petitioner and processed him as an unaccompanied juvenile. *Id.*

On October 1, 2021, CBP issued Petitioner a Notice to Appear (NTA) charging him with inadmissibility in violation of section 212(a)(6)(A)(i) of the INA, as an alien 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. **Exhibit A**: 2021 NTA. On October 19, 2021, Petitioner was released to his father's custody. *See* D.E. 1-9 at p.9 (Verification of Release). Once released to his father, Petitioner ceased being an "unaccompanied" minor.

At the end of September 2025, Petitioner turned eighteen years old. *Id.* On November 19, 2025, the Florida Highway Patrol encountered Petitioner during a vehicle stop for a traffic violation. **Exhibit B**: Declaration ¶ 10. The arresting agency transported Petitioner to the Dania Beach Station and transferred custody to CBP. *Id.* On November 20, 2025, Petitioner was taken into custody of Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). **Exhibit C**: Detention History.

On or about December 3, 3025, CBP filed a NTA placing Petitioner in removal proceedings and, as before, charged him with inadmissibility in violation of section 212(a)(6)(A)(i) of the INA. *See* D.E. 1-6 (November 19, 2025 NTA). Because the November 19, 2025 NTA did not contain the date and time of Petitioner's hearing before the immigration judge, on December 22, 2025, the Department of Homeland Security filed a new NTA containing such information. **Exhibit D**: NTA dated 11.26.25. On January 15, 2026, the Immigration Court granted Petitioner's motion to

terminate removal proceedings because the November 26, 2025 NTA lacked a charge of removal and was thus legally insufficient. **Exhibit E**: IJ Order 1.15.26.

On January 15, 2026, ICE ERO filed a Notice to Appear charging Petitioner with inadmissibility in violation of INA § 212(a)(6)(A)(i), and under section 212(a)(7)(A)(i)(I) of the INA, as 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 section 211(a) of the Act. **Exhibit F**: 1.15.26 NTA. At a master calendar hearing on January 20, 2026, Petitioner, through counsel, admitted the allegations and conceded the charges contained in the 2026 NTA. Ex B ¶ 13. On the same date, the immigration judge sustained the charges of removability. *Id.*

On January 30, 2026, the Immigration Judge denied Petitioner's request for custody redetermination on the basis that Petitioner is present in the United States without admission and is subject to mandatory detention under section 235(b)(2)(A) of the INA (citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)). **Exhibit G**: Bond Denial Order. Petitioner's removal proceedings remain pending. Ex B ¶ 14. Petitioner's next master calendar hearing is scheduled for March 24, 2026. *Id.* Petitioner is presently detained at the Glades County Detention Center in Moore Haven, Florida. Ex C. He is detained under section 235(b)(2) of the INA.

II. ARGUMENT

A. Petition Must be Dismissed for Lack of Jurisdiction or Transferred to the Middle District Because Petitioner is confined within the Middle District of Florida.

Petitioner admits to being detained at Glades County Detention Center, which is located in Moore Haven, Florida a city in Glades County, Florida. DE 1 ¶¶ 1, 16; *see also* Ex B ¶ 15; Ex D.[2] Glades County, Florida falls within the Middle District of Florida. *See* 28 U.S.C. § 89 (b). Accordingly, Petitioner's district of confinement is the Middle District of Florida. Despite this admission, Petitioner incorrectly claims that venue is proper in this district because "a substantial part of the events giving rise to these claims occurred in this district." DE 1 ¶ 13. However, this is not the proper inquiry for venue under 28 U.S.C. § 2241.

Section 2441 allows "the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus only "within their respective jurisdictions." 28 U.S.C. § 2441(a). According to the Supreme Court, the "within their respective jurisdiction" phrase means "that a Section 2441 petitioner challenging his present physical custody must file a petition for writ of habeas corpus in the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004). "In challenges to present physical confinement...the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Padilla*, 542 U.S. at 435-40, 439.

Recently, the Supreme Court reiterated this rule and clarified that in habeas petitions filed by immigration detainees, "jurisdiction lies in only one district: the district of confinement" *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (citing *Padilla*, 542 U.S. at 426, 443). In *J.G.G.*, the Supreme Court found that detainees in Texas improperly filed a putative class action in the District of Columbia challenging their detention. ("The detainees are confined in Texas, so venue is improper in the District of Columbia.").

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[2] Pursuant to Rule 201(b)(2), Respondents request that the Court take judicial notice of the location of Glades County Detention Center as this fact can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

Similarly, courts in this district, citing *Padilla*, previously dismissed habeas petitions for lack of jurisdiction filed by immigration detainees located outside the Southern District of Florida or alternatively, transferred matter to the correct district. *See Ali v. Florida Soft Side South*, 26-cv-20098-Gayles (S.D. Fla. Jan. 9, 2026) (sua sponte transferring habeas corpus claim filed in Southern District of Florida where custodian was FSSFS to Middle District of Florida) attached as **Exhibit H**; *Zhang v. United States*, 21-CV-81382-ALTMAN, 2021 U.S. Dist. LEXIS 162725, at *2-3 (S.D. Fla. Aug. 25, 2021) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Glades County Jail, in Glades County, Florida, because jurisdiction lies in the district of confinement); *Dolme v. Barr*, 20-CV-24106-Altman, 2020 U.S. Dist. LEXIS 197596, at *2-3 (S.D. Fla. Oct. 21, 2020) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Wakulla County Jail, in Wakulla County, in the Northern District of Florida, because jurisdiction lies in the district of confinement); *see also Fernandez v. United States*, 941 F.2d 1488, 1495 (11th Cir. 1991) ("Section 2241 petitions may be brought only in the district court for the district in which the inmate is incarcerated."); *Price v. Immigr. & Custom Enf't*, No. 1:20-CV-4746-AT-JSA, 2020 WL 13544293, at *1 (N.D. Ga. Nov. 30, 2020), report and recommendation adopted sub nom. *Price v. U.S. Immigr. Customs Serv. (ICE)*, No. 1:20-CV-4746-AT, 2020 WL 13544292 (N.D. Ga. Dec. 18, 2020) (transferring matter to correct district).

Accordingly, Respondents respectfully request this Petition be dismissed for lack of jurisdiction, or in the alternative, transferred to the Middle District of Florida where Petitioner is currently detained and was detained at the time of his Petition.

B. Petitioner is an Applicant for Admission[3] subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and discretionary detention under § 1226(a) is Inapplicable as Clarified by the Fifth Circuit Court of Appeal in *Buenrostro-Mendez*.

[3] The government submits the following arguments in good faith, supported by the Fifth Circuit Court of Appeals' recent decision in *See Buenrostro-Mendez v. Bondi,* No. 25-20496, 25-40701, ___F. 4th ___, 2026

Petitioner is properly detained as an applicant for admission subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *See Buenrostro-Mendez v. Bondi,* No. 25-20496, 25-40701, ___F. 4th ___, 2026 WL 323330 (5th Cir. Feb. 6 2026) (holding that aliens who evaded inspection at a port of entry were necessarily "applicants for admission" and fell within § 1225(b)); *Perez*

WL 323330 (5th Cir. Feb. 6 2026) and decisions previously rendered in other cases in this District. *See, e.g., Iraheta Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL, ECF No. 10 (S.D. Fla. Jan. 29, 2026) (concluding that habeas petitioner who entered the United States without inspection in 2004 is an "applicant for admission" governed by 8 U.S.C. § 1225(b) and rejecting petitioner's argument the government must grant a bond hearing under 8 U.S.C. § 1226); *Perez Morales v. Noem*, et al., Case No. 26-60251-CIV-DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026) (holding that the noncitizen petitioners in removal proceedings were subject to mandatory detention under 28 U.S.C. § 1225(b)(2) because they were present in the United States without being admitted or paroled, despite having entered illegally many years ago). Nevertheless, the government acknowledges that Judges in this District have reached the opposite conclusion on the legal issues presented. *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"); *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., 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., 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 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)").

Morales v. Noem, et al., Case No. 26-60251-CIV-DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026) (adopting *Buenrostro-Mendez* and holding that the noncitizen petitioners in removal proceedings were subject to mandatory detention under 28 U.S.C. § 1225(b)(2) because they were present in the United States without being admitted or paroled, despite having entered illegally many years ago) attached as **Exhibit I**; *Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL, ECF No. 10, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026) (concluding that habeas petitioner who entered the United States without inspection in 2004 is an "applicant for admission" governed by 8 U.S.C. § 1225(b) and rejecting petitioner's argument the government must grant a bond hearing under 8 U.S.C. § 1226))[4]. The Fifth Circuit in *Buenrostro-Mendez* recognized that "[s]ince DHS began to detain unadmitted aliens under § 1225(b)(2)(A), well over a thousand aliens have filed habeas corpus petitions seeking bond hearings[] [and,] [i]n most of these cases, the district court found in favor of the petitioner." *Id.* 2026 WL 323330 at *3. Nevertheless, the court concluded that such decisions ignored the plain language of § 1225, because presence without admission renders an individual like Petitioner to be both an "applicant for admission" and "seeking admission" under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention--regardless of how much time the individual has been present in the United States. *Buenrostro-Mendez*, at *4-9. The court noted that the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)'s legislative history explained that the IIRIRA aimed to reduce the incongruity in the legislative scheme that afforded aliens who evaded inspection and were apprehended months or years later greater procedural protections than aliens who lawfully

[4] Although the opinion mainly relied upon the plain language and legislative intent, Judge Singhal noted that accepting Petitioner's reasoning would "create a perverse incentive to enter ... [the United States] unlawful[ly]" because it would give an alien who unlawfully entered a bond hearing while an alien who entered lawfully would be denied such relief. *Morales*, 2026 WL 236307 at * 7. This is precisely what the IIRIRA was intended to do away. *Id.* In other words, Petitioner's reading is not only contrary to the plain language of §1225, but also contrary to Congress' stated intent in passing the IIRIRA.

presented themselves for inspection at a point of entry. *Id.* at 1 citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Hence, Congress noted the previous incongruity in its legislative scheme that inadvertently afforded aliens who entered illegally a greater protection and aimed to rectify such incongruity through the IIRIRA. Thus, according to *Buenrostro-Mendez* not only did the plain language of the statute clearly require that aliens who entered illegally be treated as applicants for admissions, but also that, based on statutory history, this was Congress's expressed intent. *Id.*

"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 Buenrostro-Mendez,* at 2 ("an alien's status as an applicant for admission does not turn on where or how the alien entered the United States"); *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 did not present himself at a POE but instead entered the United States without having been admitted or paroled after inspection by an immigration officer. *See* Ex B ¶ 8. Petitioner is, therefore, an alien present in the United States without admission or parole and, consequently, an applicant for admission. *See Buenrostro-Mendez*, at *2, 4-5 (explaining that "an alien's status as an applicant for admission does not turn on where or how the alien entered the United States"

and that an "applicant for admission" is necessarily "seeking admission," as contemplated in 8 U.S.C. § 1225(b)(2))).

The decision issued by the BIA in *Matter of Yajure Hurtado* is similarly instructive. 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.

C. 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 subject 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)).

Petitioner, who entered without inspection between ports of entry, is currently in § 1229a removal proceedings and is subject to detention under § 1225(b)(2)(A). DE 1 ¶ 27; Ex F; Ex B ¶¶ 11, 14. Hence, 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. Further, there is 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).

In *Morales*, a recent decision by another court in this district denying a habeas petition under similar facts, Judge Singhal explained that petitioner's reading of 1225(a) as it relates to removal proceedings under 1229a creates an "interpretive conundrum", because it requires the Court conclude "that Petitioner is simultaneously ***not*** an applicant for admission as it concerns his detention, but ***is*** an applicant for admission for purposes of his removal proceedings." 2026 WL 236307 at * 7 (emphasis in original). This is because petitioner is under removal proceedings under § 1229a and, as a matter of law, can only succeed in those proceedings if he proves that either he is "lawfully present" (an impossibility given his admitted illegal entry), or "if the alien is

an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 1182 of this title". *Id.* quoting § 1229a(c)(2)(A)-(B). In other words, Petitioner is necessarily and implicitly taking the position that he is an "applicant for admission" for the purpose of his removal proceedings, which he challenges, while arguing to this Court that he is not an "applicant for admission" for the purpose of obtaining a bond hearing. These positions and reasoning are irreconcilable. *Id.* Given this interpretive conundrum, Petitioner's proposed reading is rendered even more unpersuasive.

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

Petitioner urges the Court to find that his detention is authorized only by 8 U.S.C. § 1226(a), but that is incorrect. Section 1226(a) is the applicable detention authority for aliens who have been admitted and are subject to removal proceedings under § 1229, and it 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]." 8 U.S.C. § 1225(b)(2)(A). Section § 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). As the Fifth Circuit observed in Buenrostro-Mendez, § 122(a) "does work independent from § 1225(b)(2)(A) because only § 1226(a) applies to admitted aliens who overstay their visas, become deportable on many different grounds, or were admitted erroneously due to fraud or some other error." *Buenrostro-Mendez*, at *7.

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). 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.

E. 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"). Lastly, 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).

F. Petitioner is no longer an Unaccompanied Minor and his Prior Status as one does not Obviate Mandatory Detention or Entitle Him to a Bond Hearing.

Petitioner argues that because he entered the country as an unaccompanied minor, he is exempt from the requirement of mandatory detention; despite the fact that he stopped being "unaccompanied minor" in October 2021 when he was released to his father and that he was not a minor when he was detained in November 2025. Petition at ¶¶ 71-72. First, Congress has made no provision permanently exempting individuals who entered the country as unaccompanied minors from the mandatory detention provision in 8 U.S.C § 1225(b)(2), nor has any court held that individuals who were once unaccompanied minors, but no longer meet that criteria, are eternally exempted from § 1225(b)(2). Instead, the provisions Petitioner has cited, which do not apply to him, do not reflect any intent to shield unaccompanied minors from enforcement of the nation's immigration laws altogether as Petitioner boldly suggests. Section 8 U.S.C. § 1232(a)(5)(D)(i), for example, still allows for the placement of unaccompanied minors in removal proceedings, albeit with a right to counsel and the right to voluntary departure under 8 U.S.C. § 1229c that is not guaranteed to adults in removal proceedings.

Finally, Petitioner is not currently an unaccompanied minor and has not been one since 2021. As explained above, Petitioner ceased being unaccompanied when he was released into his father's custody in 2021. Moreover, Petitioner was not a minor when he was detained in November 2025 as he was 18 years old at the time. In sum, unaccompanied minors are not exempt from detention; and, even if they were, Petitioner is not an unaccompanied minor. Thus, none of the provisions Petitioner cites concerning the care and custody of unaccompanied minors apply to him.

G. Petitioner failed to Exhaust his Administrative Remedies

Lastly, the Court should dismiss the petition for writ of habeas corpus for failure 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 argues that he is not required to avail himself of the administrative remedies available to him (*see* Petition at ¶ 44) and instead seeks an order requiring a bond hearing essentially asking this Court to review the IJ's custody determination in an appellate capacity. By regulation, the BIA has authority to review IJ custody determinations. *See* 8 C.F.R. §§ 1003.1(b)(7), 1003.38. As set forth in the EOIR Policy Memo 25-45 the BIA and IJs can consider constitutional challenges to the INA – such could include a Fifth Amendment challenge to the BIA's interpretation of 235(b)(2) in *Yajure Hurtado*. *See* https://www.justice.gov/eoir/eoir-policy-manual/memoranda-pm-list. Notably, pursuant to 8 U.S.C. § 1252, any decision by the BIA on constitutional claims, such as those raised here, would be appealable directly to the Eleventh

Circuit Court of Appeal. Here, Petitioner has refused to avail himself of the administrative and review process available to him including appealing the denial of his custody determination to the BIA before proceeding to this Court in hopes of shopping for a more favorable forum and undermining the review process set forth in statute. Accordingly, the Petition should be dismissed for failure to exhaust administrative remedies.

F. 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims.

Under § 1252(b)(9), "judicial review of all questions of law . . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an alien from the United States" is only proper before the appropriate court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("*AADC*"). Section 1252(b)(9) is an "unmistakable 'zipper' clause" that "channels judicial review of all [claims arising from deportation proceedings]" to a court of appeals in the first instance. *Id.*; *see Lopez v. Barr*, No. CV 20-1330 (JRT/BRT), 2021 WL 195523, at *2 (D. Minn. Jan. 20, 2021) (citing *Nasrallah v. Barr*, 590 U.S. 573, 579–80 (2020)). Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means for judicial review of immigration proceedings. Notwithstanding any other provision of law (statutory or nonstatutory), . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this chapter, except as provided in subsection (e) [concerning aliens not admitted to the United States]. 8 U.S.C. § 1252(a)(5). "Taken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the [petition-for-review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original);

see id. at 1035 ("§§ 1252(a)(5) and [(b)(9)] channel review of all claims, including policies-and-practices challenges . . . whenever they 'arise from' removal proceedings"); *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only when the action is "unrelated to any removal action or proceeding" is it within the district court's jurisdiction); *cf. Xiao Ji Chen v. U.S. Dep't of Justice*, 434 F.3d 144, 151 n.3 (2d Cir. 2006) (a "primary effect" of the REAL ID Act is to "limit all aliens to one bite of the apple" (internal quotation marks omitted)).

Critically, "[§] 1252(b)(9) is a judicial channeling provision, not a claim-barring one." *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that "[n]othing . . . in any other provision of this chapter . . . shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section." *See also Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d Cir. 2008) ("[J]urisdiction to review such claims is vested exclusively in the courts of appeals[.]"). The petition-for-review process before the court of appeals ensures that aliens have a proper forum for claims arising from their immigration proceedings and "receive their day in court." *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); *see also Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) ("The REAL ID Act of 2005 amended the [INA] to obviate . . . Suspension Clause concerns" by permitting judicial review of "nondiscretionary" BIA determinations and "all constitutional claims or questions of law.").

In evaluating the reach of subsections (a)(5) and (b)(9), the Second Circuit explained that jurisdiction turns on the substance of the relief sought. *Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011). Those provisions divest district courts of jurisdiction to review both direct and indirect challenges to removal orders, including decisions to detain for purposes of removal or for proceedings. *See Jennings*, 583 U.S. at 294–95 (section 1252(b)(9) includes challenges to the

"decision to detain [an alien] in the first place or to seek removal[.]"). Here, Petitioner challenges the decision and action to detain him, which arises from DHS's decision to commence removal proceedings, and is thus an "action taken . . . to remove [him/her] from the United States." *See* 8 U.S.C. § 1252(b)(9); *see also, e.g.*, *Jennings*, 583 U.S. at 294–95; *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020) (finding that 8 U.S.C. § 1226(e) did not bar review in that case because the petitioner did not challenge "his initial detention"); *Saadulloev v. Garland*, No. 3:23-CV-00106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) (recognizing that there is no judicial review of the threshold detention decision, which flows from the government's decision to "commence proceedings"). As such, the Court lacks jurisdiction over this action. The reasoning in *Jennings* outlines why the Petitioner's claims cannot be reviewed by the Court.

While holding that it was unnecessary to comprehensively address the scope of § 1252(b)(9), the Supreme Court in *Jennings* provided guidance on the types of challenges that may fall within the scope of § 1252(b)(9). *See Jennings*, 583 U.S. at 293–94. The Court found that "§1252(b)(9) [did] not present a jurisdictional bar" in situations where "respondents . . . [were] not challenging the decision to detain them in the first place." *Id.* at 294–95. In this case, the Petitioner *does* challenge the government's decision to detain him in the first place. Though the Petitioner frames his challenge as relating to detention authority, rather than a challenge to DHS's decision to detain him in the first instance, such creative framing does not evade the preclusive effect of § 1252(b)(9).

The fact that the Petitioner is challenging the basis upon which he is detained is enough to trigger § 1252(b)(9) because "detention *is* an 'action taken . . . to remove' an alien." *See Jennings*, 583 U.S. at 319 (Thomas, J., concurring); 8 U.S.C. § 1252(b)(9). The Court should dismiss the Petitioner's claims for lack of jurisdiction under § 1252(b)(9). The Petitioner must present his

claims before the appropriate court of appeals because he challenges the government's decision or action to detain him, which must be raised before a court of appeals, not this Court. *See* 8 U.S.C. § 1252(b)(9).

III. CONCLUSION

As mentioned above, this Court lacks jurisdiction over this matter; therefore, should dismiss or transfer it to the Middle District of Florida. That said, on the merits, the Petition should be dismissed because detention is lawful under § 8 U.S.C. § 1225(b)(2), because the Court lacks jurisdiction pursuant to §§ 1252(b)(9) to review decisions to commence removal proceedings, and because Petitioner has failed to exhaust his administrative remedies before seeking relief from the Court. Regardless, given that Respondents Pamela Bondi, Kristi Noem, Todd M. Lyons, Juan Agudelo, and Cynthia Lawson-Swain are not Petitioner's immediate custodians, they must be dropped/dismissed as parties.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 12, 2026, I electronically filed the foregoing with the Clerk of Court using CM/ECF.

Respectfully submitted,

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