

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ILYAS PECEN,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:26-cv-155
	)	
WARDEN, FOLKSTON ICE	)	
PROCESSING CENTER,	)	
	)	
Respondent.	)	

RESPONSE TO SHOW CAUSE ORDER

I. Introduction

Petitioner Ilyas Pecen ("Petitioner" or "Pecen") filed a habeas corpus petition pursuant to 28 U.S.C. § 2241. Doc. 1. Pecen's § 2241 petition incorrectly alleges that he is detained because Immigration and Customs Enforcement ("ICE") has deemed him an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See* Doc. 1, pp. 10-11 ¶ 57-60. He further alleges that he is not subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1)(B). *Id.*

On February 3, 2026, the Court issued an Order directing Respondent to show cause within five business days as to why the Court should not grant the same relief to Petitioner that the Court granted to petitioners in the recently adjudicated *Villa* case. Doc. 2; *see Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025).

Pecen is not entitled to the same relief as the Petitioners in the cases consolidated with *Villa* because he is detained under 8 U.S.C. § 1225(b)(1)—the statute governing procedures for those aliens subject to expedited removal. See Declaration of Bjorn Cupid (Exhibit 1), ¶ 10. Accordingly, the Court's decision in *Villa*, addressing the catchall provision of 8 U.S.C. § 1225(b)(2), is not applicable to Pecén, who is mandatorily detained pending expedited removal pursuant to 8 U.S.C. § 1225(b)(1).

Should the Court desire a more exhaustive response memorandum or briefing on claims (or counts) not explicitly addressed herein, Respondent respectfully requests leave to file such a brief and will do so upon the Court's request.

II. Statutory Framework

The INA contains two complementary provisions, 8 U.S.C. §§ 1225 and 1226, governing the detention of aliens prior to issuance of a removal order. Section 1225 applies to “applicants for admission,” who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission, in turn, “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject to expedited removal proceedings. See 8 U.S.C. § 1225(b)(1)(A)(i). But if the

alien “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). The statute makes clear that an alien subject to these procedures “shall be detained pending determination of credible fear of persecution.” *Id.* § 1225(b)(1)(B)(iii)(IV) (Emphasis added). Likewise, the statute requires that an alien “found not to have such a fear” be detained until removed from the United States. *Id.* (“Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.”).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a removal proceeding “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); see *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025) (“[A]liens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.”) (citing *Jennings*, 583 U.S. at 300); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”)

(internal citation omitted; quoting *Jennings*, 583 U.S. at 299)). Still, the Department of Homeland Security (“DHS”) possesses sole discretionary 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.” *Id.* § 1182(d)(5)(A); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

The second statutory provision governing the detention of aliens prior to issuance of a removal order is Section 1226, which provides for arrest and detention “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). This section provides authority to detain aliens who do not fall under § 1225(b)(2) because they were previously admitted, but who are placed in removal proceedings under § 1229a for various reasons, including by violating their status, overstaying their visas, or being convicted of certain crimes. See 8 U.S.C. § 1227(a).

III. Factual Background

Pecen is a native and citizen of Turkey. See Exh. 1, ¶ 4. On or about August 29, 2024, Petitioner was encountered by United States Border Patrol (“USBP”) after entering the United States without inspection or admission at or near Tecate, California. *Id.*, ¶ 4. USBP determined that Petitioner was inadmissible pursuant to 8 U.S.C. §§ 1182(a)(6)(A)(i), (a)(7)(A)(i)(I). *Id.* Petitioner was detained and processed for expedited removal pursuant to 8 U.S.C. § 1225(b)(1). *Id.*

Petitioner claimed relief from expedited removal and was referred to United States Citizenship and Immigration Services (“USCIS”) for consideration of his claim.

Exh. 1 ¶ 5. On November 6, 2024, USICS served Petitioner with a Notice to Appear (“NTA”) charging him with the aforementioned grounds of inadmissibility. *Id.* ¶ 6; *see* Ex. 4 (Form I-862, Notice to Appear). On December 18, 2024, Immigration and Customs Enforcement/ Enforcement and Removal Operations (“ICE/ERO”) released Pecen on parole. *Id.* ¶ 6; *see also* Exh. 5.

On December 23, 2025, ICE/ERO re-arrested and re-detained Petitioner. Exh. 1 ¶ 8. On January 2, 2026, Petitioner was transferred from Irwin County Detention Center to the Folkston D Ray Immigration Center in Folkston, Georgia, and is currently being detained there. *Id.*, ¶ 8. He is being detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii). *Id.*, ¶ 10. ICE/ERO is currently removing non-citizens subject to final orders of removal to Turkey. *Id.* ¶ 11.

IV. Argument

A. Petitioner is detained under 8 U.S.C. § 1225(b)(1).

In *Villa* and the cases consolidated with it, this Court considered whether petitioners were subject to mandatory detention under § 1225(b)(2) or, as the petitioners in *Villa* argued, discretionary detention under § 1226(a). *See Villa*, 2025 WL 3095969, at *4. The Court provided its detailed analysis regarding the statutory interpretation of § 1225(b)(2). *Villa*, 2025 WL 3095969. It did not, however, analyze the expedited removal provisions set forth in § 1225(b)(1), as such provisions were not at issue.

Here, Mr. Pecen is detained for expedited removal under § 1225(b)(1)(B)(ii). *See* Exh. 1, ¶ 10. Contrary to Petitioner’s contentions he is not detained under §

1225(b)(2) – the provision addressed in *Villa*. Cf. Doc. 1, pp. 10-11 ¶¶ 57-60. Accordingly, Petitioner is not entitled to the same relief as the petitioners in the cases consolidated with *Villa*.

Rather, Petitioner is detained pursuant to § 1225(b)(1)(B)(ii). See Ex. 1, ¶ 10. Contrary to Petitioner’s assertions, the fact that he was allegedly granted parole does not affect the detention authority here because the Supreme Court settled that “parole ‘shall not be regarded as an admission of the alien,’ and that after the return to custody the alien’s case ‘shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.’” *Leng May Ma v. Barber*, 357 U.S. 185, 188 (1958) (quoting 8 U.S.C. § 1182(d)(5)); see also 8 C.F.R. § 208.30(f) (citing the same); cf. Doc. 1, pp. 10-11 ¶¶ 57-60. Importantly, as Petitioner has conceded, and, indeed, must concede, those aliens—like Pecem—who are detained under § 1225(b)(1) are subject to *mandatory* detention. See 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) (“**Mandatory Detention**—Any alien subject to the procedures under this clause *shall* be detained pending a final determination . . . and until removed.”); see also Doc. 1, p. 8 ¶ 44; *Jennings v. Rodriguez*, 583 U.S. 281, 292 (2018) (concluding, inter alia, Ninth Circuit erred in applying constitutional avoidance cannon to conclude that § 1225(b) “impos[e] an implicit 6-month time limit on an alien’s detention”).

V. Conclusion

For the reasons stated above, this action is distinguishable from *Villa*, and the Court should not grant Petitioner the relief awarded in that case. Respondent

reserves his defenses to the merits of the Petition, to include defenses related to the justiciability of Petitioner's claims, until such time as the Court directs a response.

Respectfully submitted,

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Dated: February 11, 2026