UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 26-20791-CIV-MOORE
(Consolidated with Case Nos. 26-20783-CIV-MOORE, 26-20893-CIV-MOORE, 26-20945-MOORE, and 26-20934-MOORE. *See* ECF Nos. 5, 6, and 7)

GUILLERMO MIRANDA MEDINA,
Petitioner,
v.
CHARLES PARRA, Field Office Director, Immigration and Customs Enforcement, *et al.*,
Respondents.
_____/

PAUL ANDRES CARRENO COLINA,
Petitioner,
v.
LOUIS A. QUINONES, JR.,, Warden of the Orange County Jail, *et al.*,
Respondents.
_____/

CARLOS ENRIQUE MACHADO QUESADA,
Petitioner,
v.
GARRETT RIPA, Field Office Director of Immigration and Customs Enforcement, *et al.*
Respondents.
_____/

BAYRON ENRIQUE MASH GARCIA,
Petitioner,
v.
WARDON OF KROME SPC,
Respondent.
_____/

ALEXANDER PEREZ-VASQUEZ,
Petitioner,
v.
ROGER MORRIS, Acting Warden of Federal Detention Center Miami, et al.,
Respondents
_____/

RESPONSE TO ORDER TO SHOW CAUSE AND PETITION FOR A WRIT OF HABEAS CORUPS UNDER 28 U.S.C. § 2241

Respondents,[1] through the undersigned Assistant United States Attorney, pursuant to the Court's Paperless Order Consolidating Cases (ECF No. 5) submit this Consolidated Response to this Court's Order to Show Cause why the petition for writ of habeas corpus in each of the cases captioned above should not be granted. For the reasons set for below, this Court should dismiss or deny each of the petitions.

INTRODUCTION AND BACKGROUND

Petitioner Medina

Petitioner, Guillermo Miranda Medina, is a native and citizen of Cuba and a convicted sex offender. Medina Exh. A, Notice to Appear. On or about January 1, 1982, Medina adjusted status to that of a lawful permanent resident of the United States. *Id.* On or about June 2, 2005, Medina was convicted of Lewd and Lascivious Exhibition, case number [redacted] and sentenced to ten years in prison. *Id.* Medina was placed in removal proceedings and charged with removability under section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA), as amended, in that at any time after admission, he was convicted of an aggravated felony: to wit, a law relating to sexual abuse of a minor, as defined in section 101(a)(43)(A) of the INA. *Id.* On August 22, 2011, Medina was ordered removed to Cuba by an Immigration Judge. See Medina Exh. B, Removal Order. Medina waived the right to appeal the decision. *Id.*

On October 20, 2019, Medina self-deported from the United States. Medina Exh. C. Notice of Intent to Reinstate, dated March 28, 2023. Medina illegally re-entered the United States, however, on or about February 19, 2022. *Id.* As a result, ICE Enforcement and Removal Operations (ERO) determined that Medina was subject to removal from the United States through

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[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 is currently detained at Krome Service Processing Center. *See* Exhibit D. Therefore, the proper respondent is Charles Parra, in his official capacity as the Assistant Field Office Director in charge of the Krome Service Processing Center. Respondent must all be dismissed as improper parties.

reinstatement of the prior order in accordance with INA § 241(a)(5). *Id.* Medina was referred to an immigration judge in accordance with 8 C.F.R. §208.31(e). Medina Exh. D, I-863, Notice of Referral to Immigration Judge. On April 26, 2023, Medina withdrew all claims for relief. Medina Exh. E, Order dated April 26, 2023. On May 19, 2023, Medina was released on an order of supervision. Medina Exh. F, Detention History.

On October 29, 2025, ICE ERO revoked Petitioner's order of supervision to effectuate his removal. Medina Exh. G, Notice of Revocation of Release. Petitioner is presently detained at the Krome Service Processing Center. Medina Exh. F, Detention History.

In this action, Medina seeks a writ of habeas corpus but does not present any valid arguments as to why his detention is unlawful. Instead, Medina's Petition cites statutory provisions governing removal to third countries (*see* Medina Petition at "Legal Argument," ¶ 1); general due process protections afforded to immigration detainees (*id.* at ¶ 2-3); the existence of—but not his entitlement to—alternatives to detention (*id.* at ¶ 4); and observations about the hardships faced by immigration detainees while in custody (*id.* at ¶ 5). As demonstrated below, Medina's Order of Supervised Release was appropriately revoked and he is lawfully in custody, subject to a Final Order of removal.

Petitioner Colina

Petitioner Paul Andres Carreno Colina is a citizen of Venezuela who last entered the United States on December 4, 2023 under Venezuelan Humanitarian Parole. *See* Form I-213, Record of Deportable/Inadmissible Alien, attached as "Colina Exhibit A" at 2. His parole was set to expire on December 2, 2025, however he was issued a Notice to Appear placing him in removal proceedings on October 31, 2025, which terminated parole. *See* Colina Petition at 13 (reflecting admission until December 2, 2025); *see also* Notice to Appear, attached as "Colina Exhibit B"; 8 C.F.R. § 212.5(e)(2). Colina is now in immigration removal proceedings before the Executive Office for Immigration Review and has a hearing on February 17, 2026. *See* EOIR Case Information, attached as "Colina Exhibit C." Petitioner has no lawful immigration status in this country at this time. *See* Colina Petition (lacking any evidence of valid, lawful status). Petitioner was arrested on battery charges and placed in the Osceola County Jail in October. Colina Exhibit A at 2. ICE issued a detainer requesting permission to assume custody from there which was granted. *Id.* Petitioner is currently detained by ICE at the Miami Federal Detention Center. *See* EARM Detention History, attached as "Colina Exhibit D."

Colina seeks a writ of habeas corpus on the grounds that he is improperly detained without bond under 8 U.S.C. § 1225 rather than 8 U.S.C. § 1226. *See generally* Colina Petition. As explained further below, Colina is properly detained as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

Petitioner Machado Quesada

Petitioner Carlos Enrique Machado Quesada is a Cuban national who entered the United States without inspection on March 6, 2022 and was placed in removal proceedings under 8 U.S.C. § 1229a, charged as being an inadmissible alien present in the United States without being admitted or paroled, or who arrived in the country at any time or place other than as designated by the Attorney General. *See* Quesada Petition at ¶ ¶ 1, 3, 6. Machado Quesada was not in ICE custody when he was arrested in Miami-Dade, Florida on September 4, 2025, for procuring or soliciting another to commit prostitution. Quesada Petition at ¶ 8. On September 6, 2025, upon his release from the custody of Miami-Dade County, he was transferred to the custody of ICE. *Id.* at ¶ 10. He is currently detained at Krom North Service Processing Center under 8 U.S.C. § 1225(b)(2)(A).

Like Petitioner Colina, Machado Quesada seeks a writ of habeas corpus on the grounds that he is improperly detained without bond under 8 U.S.C. § 1225 rather than 8 U.S.C. § 1226. *See generally* Quesada Petition. As explained further below, Machado Quesada is properly detained as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

Machado Quesada also argues, pursuant to *Zadvydas*, that his detention is unlawful because his removal is not reasonably foreseeable. *See* Quesada Petition at ¶¶ 84. As explained below, however, Machado Quesada is not yet subject to a final removal order, so *Zadvydas* does not apply. Even if *Zadvydas* did apply, Machado Quesada has not yet been in detention long enough to state a claim for unreasonable detention under *Zadvydas* and he fails to provide reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, as would be necessary to sustain such a claim.

Petitioner Mash Garcia

On August 29, 2018, Petitioner Bayron Enrique Mash Garcia, a lawful permanent resident, was convicted of Assault and Battery on Law Enforcement, in violation of Virginia Code 18.2-57, and sentenced to 12 months incarceration. *See* Garcia Exh. A, Criminal Record. On November 27, 2018, Mash Garcia was convicted of Forging Coin and Bank Notes and Other Forgery/Uttering,

in violation of Virginia Code 18.2-170, and sentenced to four years in prison followed by 10 years of probation. *Id.*

At some point thereafter, Mash Garcia left the United States. On January 11, 2016, Mash Garcia returned to the United States, applying for admission at Miami International Airport as a lawful permanent resident. Mash Garcia was not admitted, however, and was instead detained and issued a Notice to Appear for removal proceedings. *See* Garcia Exh. B, Form I-213. The NTA charges Mash Garcia as inadmissible under 8 U.S.C. § 212(a)(2)(A)(i)(I), as an alien convicted of a crime involving moral turpitude. *See* Garcia Exh C, Notice to Appear. Mash Garcia is currently in ICE custody at Federal Detention Center Miami. Garcia Petition at ¶ 13.

The Court has limited its order to show cause to Ground One of Mash Garcia's Petition. *See* ECF No. 6. Mash Garcia asserts in Ground One that his detention is unlawful because he was detained without a warrant, notice or an opportunity to be heard. Garcia Petition at ¶ 13. As explained below, Mash Garcia is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(A) pending removal proceedings.

Petitioner Perez-Vasquez

Petitioner Alexander Perez-Vasquez is a foreign national that entered the United States without inspection in 2003. Perez-Vasquez Petition at ¶ 3, 4.[2] In 2015, Perez-Vasquez was arrested on December 6, 2025 for vandalizing vehicles in the parking lot of a restaurant in Palm Beach County. *See* Perez Exh. A. Arrest Affidavit. Perez-Vasquez pled guilty to three counts of misdemeanor Criminal Mischief in violation of Fl. Stat. § 806.13, and was convicted on January 21, 2026. *See* Perez Exh. B, Criminal Judgment. Perez Vasquez is currently in the custody of ICE at Federal Detention Center Miami pending removal proceedings under 8 U.S.C. § 1229a. *Id.* at ¶ 43.

Like Petitioners Colina and Machado Quesada, Petitioner Perez-Vasquez seeks a writ of habeas corpus on the grounds that he is improperly detained without bond under 8 U.S.C. § 1225 rather than 8 U.S.C. § 1226. *See generally* Perez-Vasquez Petition. As explained further below, Perez-Vasquez is properly detained as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

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[2] The Petition indicates the Perez Vasquez is Mexican, but records of his arrests indicate he is Guatemalan.

MEDINA ARGUMENT

The habeas statute, 28 U.S.C. § 2241, empowers the Court to issue a writ of habeas corpus in cases where a detained person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. Medina, however, has not alleged any facts demonstrating that his detention is unlawful. In any event, Medina is lawfully detained and the Court should deny his Petition.

I. This Court Lacks Jurisdiction Over Medina's Claims.

"Federal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citation omitted); *see also Johansen v. Combustion Eng'g, Inc.*, 170 F.3d 1320, 1328 n.4 (11th Cir. 1999) ("A federal court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does not exist arises."). For these reasons, before this Court can proceed, it must determine whether it has jurisdiction over this action. *See Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1323 (11th Cir. 2012) ("Prior to making an adjudication on the merits, we must assure ourselves that we have jurisdiction to hear the case before us.").

A. Congress Stripped this Court of Jurisdiction to Prevent the Execution of Removal Orders.

Medina is, in essence, asking this Court to prevent ICE from executing his removal order by ordering his immediate release (ECF No. 1 at 7) (requesting as relief that the "Court order that Medina be released immediately from DHS custody either without bond or with bond in a reasonable amount"). This Court, however, lacks jurisdiction to grant such relief.

Federal law precludes a district court from interfering with the government's decision or action to execute orders of removal. 8 U.S.C. § 1252(g). Section 1252(g) specifically states that "no court shall have jurisdiction to hear any cause or claim by … any alien arising from the decision or action by [ICE] to … execute removal orders against any alien.' 8 USC § 1252(g). This provision applies "notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision." *Id.*

The Eleventh Circuit has explained that "[s]ection 1252(g) bars review over 'any' challenge to the execution of a removal order – and makes no exception for those claiming to challenge the government's 'authority' to execute their removal orders." *Camarena v. Dir., Immigr. & Customs Enf't*, 988 F.3d 1268, 1273 (11th Cir. 2021) (holding that where there is challenge to the validity of a removal order, district courts lack jurisdiction to hear any "cause or claim brought by an alien

arising from the government's decision to execute a removal order"). The petitioners in *Camarena* were in virtually identical situation as the one in which Medina finds himself: (a) they did not challenge their orders of removal, (b) remained in the United States via an order of supervision, and (c) filed habeas petitions after DHS attempted to execute orders of removals. Under these circumstances, the Eleventh Circuit found that the district court lacked jurisdiction to grant relief because Section 1252(g) strips courts of jurisdiction to prevent the execution of removal orders. *Id.* at 1272-73.

Here, like the petitioners in *Camarena*, Medina does not challenge the validity or existence of the order of removal. Instead, he suggests his re-detention was unlawful, and he requests immediate release from detention. Section 1252(g), as interpreted by the Eleventh Circuit in *Camarena*, deprives this Court of jurisdiction to grant such relief. *See also Rivera-Amador v. Rhoden*, Case No. 3:25-CV-1460-WWB-SJH, 2025 WL 3687452, at *3 (M.D. Fla. Dec. 19. 2025) (holding that Section 1252(g) "divests the Court of jurisdiction" from enjoining respondents from detaining and deporting petitioner subject to a removal order); *Mapoy v. Carroll*, 185 F.3d 224, 230 (4th Cir. 1999) (holding that district court lacked jurisdiction to hear a challenge to execution of order of deportation pursuant to § 1252(g)); *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *3 (S.D. Fla. Aug. 8, 2025) ("The Court finds that § 1252(g) deprives it of subject-matter jurisdiction over Respondent's decision to revoke the OSUP…").

In summary, Congress divested this Court of jurisdiction to prevent the execution of removal orders, meaning it should dismiss the Petition for lack of jurisdiction.

B. Neither the Habeas Statute Nor the APA Provides Jurisdiction Over a Claim Challenging the Revocation of an OSUP

To the extent Medina argues that the revocation of his supervised release was unlawful, neither the habeas statute (28 U.S.C. § 2241) nor the Administrative Procedures Act (5 U.S.C. § 702, *et seq.* (APA)) provides for judicial review. This Court's jurisdiction pursuant to 28 U.S.C. § 2241, by its plain language, permits courts to rule on claims related to an "applicant's commitment or detention." 28 U.S.C. § 2241. The clear language of the statute and "the common-law history of the writ" showed that "the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Alawieh v. Tweedie*, Case No. 25-10614-LTS, 2025 WL 3171170, at *3 (D. Mass. 2025), *appeal docketed*, No. 25-2238 (1st Cir. Dec. 31, 2025) (quoting *Preiser v. Rodriguez*, 411 U.S. 475 (1973)) (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). If a

"petitioner seeks relief that 'falls outside the scope of the writ as it was understood when the Constitution was adopted,' [those] claims are beyond the reach of a federal court's habeas jurisdiction." *Id.* (quoting *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 119 (2020)). Thus, to prevail, Medina must show that the alleged violations that he claims, based on the factual predicate that he alleges, fall within the reach of this Court's ability to grant habeas relief. *See, generally, Mayers v. U.S. Dept. of I.N.S.*, 175 F.3d 1289, 1300 (11th Cir. 1999) (describing how in *United States ex rel. Accardi v. Shaughnessy,* 347 U.S. 260, 265, 268, (1954), the Supreme Court explained that the "crucial question is whether the alleged conduct . . . deprived petitioner of any of the rights guaranteed [to] him by the statute or by the regulation issued pursuant thereto.").

In this case, Medina cannot do so. As a district court recently observed, "[w]hile some procedural violations may, in some circumstances, rise to the level of a due process violation," not all alleged violations "rise to the level of a due process violation and/or would independently entitle [a petitioner] to a grant of habeas relief in the form of release from detention." *Van v. Oddo*, Case No. 3:25-CV-00322, 2025 WL 3492736, at *4 (W.D. Pa., Dec. 5, 2025) (finding no habeas relief for alleged failures to provide notice for reasons of revocation and lack of "informal review"). This is particularly true in this case where Medina does not even identify how, if at all, ICE failed to properly revoke his OSUP, let alone how such failure would entitle him to release from detention. Plaintiff has plainly failed to allege a Constitutional or statutory violation warranting habeas relief and the Court is without jurisdiction to grant such relief. *Id.*[3]

To the extent Medina challenges the revocation of the OSUP under the APA, the Act does not confer jurisdiction over a claim arising from the execution of a final order of removal. *See, e.g., Westley v. Harper*, No. 25-229, 2025 WL 592788 at *6 (E.D.La. Feb. 24, 2025) (concluding that APA did not confer jurisdiction over habeas petitioner's challenge to ICE's revocation of OSUP for the purpose of effecting removal); *Berhane v. Prendis*, No. 3:04-CV-2145-N, 2004 WL 2348226, at *3 (N.D. Tex. Oct. 18, 2004) (explaining that no general jurisdiction provisions, including the APA, federal question, the Declaratory Judgment Act, the All Writs Act, the mandamus provision, the suspension clause, or common law gives a federal district court

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[3] Some opinions from this District found that this Court has jurisdiction, rejecting arguments related only to the jurisdiction-stripping provision in 8 U.S.C. § 1252. *See, e.g., Espinoza-Sorto v. Aguedlo et al.*, Case No. 25-CV-23201-DLG (DE 26); *Grigorian v. Bondi*, Case No. 25-CV-22914-RAR, 2025 WL 1895479, at *3 (S.D. Fla., July 8, 2025).

jurisdiction over a petitioner's claims arising from the execution of a final order of removal), *adopted*, 2004 WL 2624260 (N.D. Tex. Nov. 12, 2004). Accordingly, to the extent that Medina is challenging the revocation of his supervised release pursuant to the OSUP, the Court should dismiss the Petition for lack of subject matter jurisdiction.

II. On the Merits, the Revocation of Medina's OSUP Comports with Applicable Regulations and the Constitution.

If this Court finds that it has jurisdiction, it should nonetheless deny the Petition on the merits because Medina's claim that his detention violates his Constitutional rights lacks merit. To the contrary, Medina – who is subject to a final order of removal – is being lawfully detained, pursuant to 8 U.S.C. § 1231(a)(6), and his suggestion that his removal "is not significantly likely in the reasonably foreseeable future" (Medina Petition at ¶ 16) lacks merit. For these reasons, this Court should deny the Petition.

To the extent that Medina claims that respondents did not follow the procedures in 8 C.F.R. § 241.4(l) (concerning revocation of release) or 8 C.F.R. § 241.13 (concerning the determination of whether there is a significant likelihood of removing a detained alien in the reasonably foreseeable future) to revoke his OSUP and re-detain him, his claim lacks merit. DHS complied with the statutory and regulatory requirements in revoking Medina's order of supervision in that DHS provided Petitioner notice, an informal interview, and an opportunity to address the reasons for the revocation. *See* Medina Exhibit G, Notice of Revocation.

Although the applicable statute, 8 U.S.C. § 1231(a)(3), is silent as to revocation procedures for an individual released pursuant to an Order of Supervision, ICE has issued Post-Order Custody Regulations ("POCR") (*see* 8 C.F.R. § 241.4) describing the mechanisms for custody reviews, release from ICE custody, and revocation of release for individuals with final orders of removal. The specific regulatory provisions concerning revocation of release are contained at 8 C.F.R. § 241.4(l) and provide significant discretion to ICE to revoke release. *See Leybinsky v. U.S. Immigr. & Customs Enf't,* 553 F. App'x 108, 110 (2d Cir. 2014) (noting the "broad discretionary authority the regulation grants ICE" to revoke release); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (explaining that while the revocation regulation "provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion ...."). For example, the regulations authorize revocation when ICE's Field Office determines that "[t]he purposes of release have been served," or when "[i]t is appropriate to enforce a removal order . . . against an alien," or when "[t]he conduct

of the alien, *or any other circumstance,* indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2)(i)-(iv) (emphasis added).

The regulations require that, when ICE revokes release of an individual, pursuant to 8 C.F.R. § 241.4(l), ICE must conduct an "informal interview" to advise the individual of the basis for revocation and must also serve the individual with a written notice of revocation. *Id.* If ICE determines revocation remains appropriate after conducting the informal interview, then ICE will provide notice to the individual of a further custody review that "will ordinarily be expected to occur within approximately three months after release is revoked." 8 C.F.R. § 241.4(l)(3). However, ICE is not required to "conduct a custody review under these procedures when [ICE] notifies the alien that it is ready to execute an order of removal." 8 C.F.R. § 241.4(g)(4); *Rodriguez-Guardado*, 271 F. Supp. 3d at 335. Furthermore, if ICE determines in its "judgment [that] travel documents can be obtained, or such document is forthcoming, the alien will not be released unless immediate removal is not practicable or in the public interest." 8 C.F.R. § 241.4(g)(3).

A. ICE complied with the POCR Regulations to Arrest Medina.

Here, ICE ERO issued Medina a written revocation notice on October 29, 2025, explaining that ICE was revoking his release pursuant to its discretion under 8 C.F.R. §§ 241.4(l)(2)(i)-(iv). *See* Medina Exhibit **G**, Notice of Revocation of Release, dated October 29, 2025. Per the revocation notice, Medina was notified that he "will promptly be afforded an informal interview and the opportunity to respond to the reasons for the revocation and to provide evidence to demonstrate that your removal is unlikely." *Id.* Moreover, Medina was given notice of the reasons for revocation, was provided an interview and had opportunity to respond to the revocation. In revoking Medina's supervised release, ICE complied with the regulation that allows revocation when ICE determines that it "is appropriate to enforce a removal order . . . against an alien" and when ICE finds that the "purposes of release have been served." 8 C.F.R. § 241.4(l)(2).

When ICE "determined that revocation was necessary to initiate [] removal … [n]o further justification was required." *Doe v. Smith*, No. 18-cv-11363-FDS, 2018 WL 4696748, at *11 (D. Mass. Oct. 1, 2018). The regulation does not require the AFOD "to make a formal determination that his revocation was in the public interest[;]" instead, the AFOD has "discretion to determine when revocation is appropriate." *Id.* The regulation provides a "short and straight path for immigrants whom the government is ready and able to remove." *Alam v. Nielsen*, 312 F. Supp. 3d 574, 582 (S.D. Tex. 2018). As such, ICE has ample justification per its regulation to revoke release.

See Grigorian v. Bondi, No. 25-CV-22914-RAR, 2025 WL 2604573, at *5 (S.D. Fla. Sept. 9, 2025) (holding that § 241.4(l) provides government has "extraordinarily broad discretion to revoke an OSUP" under similar circumstances); *Barrios*, 2025 WL 2280485, at *4 (noting the broad discretion afforded to revoke an OSUP when effectuating an order of removal and that such a decision is not subject to judicial review under §1252(g)). Courts routinely conclude that compliance with the POCR regulations protect an individual's constitutional rights while detained while executing a removal order. *See, e.g.*, *Moses v. Lynch*, No. 15-cv-4168, 2016 WL 2636352, at *4 (D. Minn. Apr. 12, 2016) ("When immigration officials reach continued-custody decisions for aliens who have been ordered removed according to the custody-review procedures established in the Code of Federal Regulations, such aliens receive the process that is constitutionally required."); *Portillo v. Decker*, No. 21-cv-9506 (PAE), 2022 WL 826941, at *6 (S.D.N.Y. Mar. 18, 2022) (collecting cases supporting the conclusion that the POCR framework has routinely been deemed constitutional and noting that petitioner had not "cite[d] legal authority in support of his generalized laments about the administrative process").

Because Medina cannot establish that ICE acted arbitrarily in revoking his OSUP, his argument fails, and this Court should deny his Petition. *See, e.g.*, *Perez v. Berg*, No. 24-cv-3251 (PAM/SGE), 2025 WL 566884, at *7 (D. Minn. Jan. 6, 2025), *report and recommendation adopted,* No. 24-cv-3251 (PAM/ECW), 2025 WL 566321 (D. Minn. Feb. 20, 2025) (finding no due process violation "[a]bsent an indication that ICE failed to comply with its regulatory obligations in some more specific way"); *Doe*, 2018 WL 4696748, at *7 (dismissing habeas claim where "there was no regulatory violation" in connection with custody reviews).

III. Medina's Continued Detention Does Not Violate his Constitutional Rights

Medina is subject to a final order of removal and is being lawfully detained, pursuant to 8 U.S.C. § 1231(a)(6). His allegation that his removal is not reasonably foreseeable lacks merit.

A. ICE Lawfully Detained Medina Pursuant to 8 U.S.C. § 1231.

Section 241 of the Immigration and Nationality Act (8 U.S.C. § 1231) states, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." 8 U.S.C. § 1231 (a)(1)(A). That period is called the "removal period," and the Attorney General must detain the alien during the "removal period". 8 U.S.C. § 1231(a)(2)(A). The removal period is "extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely

application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal." 8 U.S.C. § 1231(a)(1)(C).

In *Zadvydas v. Davis*, the Supreme Court held that an alien subject to a final removal order may be detained beyond § 1231's 90-day removal period for an additional period "reasonably necessary to secure removal." 533 U.S. 678, 699 (2001). Such detention is "presumptively reasonable" for six months. *Id.* at 701. However, "[t]his 6–month presumption . . . does not mean that every alien not removed must be released after six months." *Id.* Rather, an alien, such as Medina, "may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit held that in order to state a claim under *Zadvydas*, "the [alien] not only must show post removal order detention in excess of six months, but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." 287 F.3d at 1052. To do so, a petitioner cannot merely rest on his own conclusory assertions—actual proof or evidence is needed. *Akinwale*, 287 F.3d at 1052 ("[T]o state a claim under *Zadvydas* the alien . . . must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future."). Where an alien cannot meet his burden of establishing that there is not a substantial likelihood of removal in the reasonably foreseeable future, a petition for habeas corpus should be dismissed. *See, e.g., Oladokun v. U.S. Atty. Gen.*, 479 F. App'x 895, 897 (11th Cir. 2012); *Akinwale*, 287 F.3d at 1052.

Medina here has only been in custody since October 29, 2025 – far shorter than necessary to state a claim for unreasonable detention under *Zadvydas* and *Akinwale*. But even setting aside that threshold bar to Medina's claim, the Court should deny Petitioner's Constitutional challenge because he has not met his burden of proving there is no significant likelihood that he will be removed. *Callender v. Shanahan*, 281 F. Supp. 3d 428, 434 (S.D.N.Y. 2017) (describing how *Zadvydas* "places an initial burden on the detainee" to establish that the "no significant likelihood" standard has been met). The Medina Petition fails to include nonspeculative assertions that his removal is not reasonably foreseeable, meaning Medina has not met his burden. *Callender*, 281 F. Supp. 3d at 434–35 (holding that petitioner must present more than "mere assertions that removal is unforeseeable").

IV. Medina Cannot Challenge the Conditions of His Confinement in this Habeas Action

Medina appears to challenge not only the fact of his confinement, but also the "the conditions of [his] confinement," which he suggests are "inappropriately poor." Medina Petition at "Legal Argument" ¶ 5. Such claims are not cognizable in a habeas proceeding under 28 U.S.C. § 2241.

Claims challenging the fact or duration of a sentence fall within the "core" of habeas corpus, while claims challenging the conditions of confinement fall outside of habeas corpus law. *Nelson v. Campbell*, 541 U.S. 637, 644 (2004). Habeas relief is meant to restore liberty to those individuals whom the Government lacked the authority to imprison or detain in the first instance. *See Boumediene v. Bush*, 553 U.S. 723, 779, 128 S.Ct. 2229, 171 L.Ed.2d 41 (2008) ("the privilege of habeas corpus entitles the prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous application or interpretation' of relevant law" (citation omitted)). Insofar as Petitioner's claims do not challenge ICE's authority to detain him, but instead the conditions under which he is confined, the Court lacks jurisdiction to grant relief. A petition for writ of habeas corpus is not the appropriate mechanism for contesting a prisoner's conditions of confinement. *See Vaz v. Skinner*, 634 F. App'x 778, 780 (11th Cir. 2015); *Matos v. Lopez Vega*, 614 F.Supp.3d 1158, 1168 (S.D. Fla. 2020); and *A.S.M. v. Donahue*, No. 20-cv-62, 2020 WL 1847158, at *1 (M.D. Ga. Apr. 10, 2020).

COLINA ARGUMENT

Colina argues that he is improperly detained under 8 U.S.C. § 1225 rather than 8 U.S.C. § 1226. *See generally* Colina Petition. Colina is currently detained while removal proceedings remain pending. Before the Immigration Court, Colina sought redetermination of ICE's initial detention determination that he was subject to mandatory detention. *See* Order of the Immigration Judge, attached as "Colina Exhibit E." The immigration judge denied release on bond on the grounds that Colina is mandatorily detained pursuant to 8 U.S.C. § 1225, in accordance with the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*.

A. Petitioner is an Applicant for Admission subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and discretionary detention under § 1226(a) is Inapplicable.

Colina 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 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; *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., No.26-60251-CIV DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026)(same, adopting the analysis of the Fifth Circuit majority opinion in *Buenrostro-Medina*). 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.* at *3. Nevertheless, the court concluded that 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.

"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 is present in the United States without being admitted, and his humanitarian parole was terminated when he was placed in removal proceedings on October 31, 2025. *See* Colina Petition at 13.[4] Consequently, Colina is an applicant for admission subject to 8 U.S.C. § 1225(b). *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))).

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[4] Parole 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). Parole, by its explicit definition in the statute, is not admission. *See* 8 U.S.C. § 1182 (d)(5)(A) (explaining that "such parole of [a noncitizen] shall not be regarded as an admission of the [noncitizen]").

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

Additionally, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the BIA held that an alien who unlawfully entered the United States between POEs, was arrested and detained without a warrant while arriving, and was previously released from DHS custody pursuant to an 8 U.S.C. § 1182(d)(5)(A) parole is detained under § 1225(b) upon re-detention. 29 I&N Dec. at 70-71. This ongoing evolution of the law makes clear that all applicants for admission in various procedural postures are subject to detention under § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (stating that "no amount of policy-talk can overcome a plain statutory command"); *see generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit"). *Florida's* conclusion "that § 1225(b)'s 'shall be detained' means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*." *Florida*, 660 F. Supp. 3d at 1273.

B. Colina 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.

Applicants for admission includes both arriving aliens and aliens present without admission or parole, and may be removed from the United States by expedited removal procedures under 8 U.S.C. § 1225(b)(1) or removal proceedings before an immigration judge under 8 U.S.C. § 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)"). *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 is currently in § 1229a removal proceedings and is subject to detention under § 1225(b)(2)(A). 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).

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

Colina 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.

D. 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).

E. Colina failed to Exhaust his Administrative Remedies

The Court should dismiss the Colina 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.).

Colina argues that he is not required to avail himself of the administrative remedies available to him. Colina Petition at 2 ("Exhaustion is not required and would be futile."). Colina instead seeks an order requiring a bond hearing in the first instance from this Court. By regulation, the BIA has authority to review IJ custody determinations. *See* 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38, 1236.1(d)(3). 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. Here, Petitioner's removal proceedings are pending, thus he has not availed himself of the administrative process and remedies available to him before proceeding to this Court in hopes of shopping for a more favorable forum. Accordingly, the Petition should be dismissed for failure to exhaust administrative remedies.

F. 8 U.S.C. § 1252(g) bars review of Colina's claims.

Section 1252(g) categorically bars jurisdiction over "*any* cause or claim by or on behalf of any alien *arising from* the decision or action by the [Secretary of Homeland Security] to *commence proceedings*, adjudicate cases, or execute removal orders against any alien." 8 U.S.C. § 1252(g) (emphasis added). The Secretary of Homeland Security's decision to *commence removal proceedings*, including the decision to detain an alien pending such removal proceedings, squarely falls within this jurisdictional bar. In other words, detention clearly "aris[es] from" the decision to commence removal proceedings against an alien. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and also to review "ICE's decision to take [plaintiff] into custody and to detain him during removal proceedings"); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 298 (3d Cir.

2020) ("The text of § 1252(g)... strips us of jurisdiction to review... [T]o perform or complete a removal, the [Secretary of Homeland Security] must exercise [her] discretionary power to detain an alien for a few days. That detention does not fall within some other part of the deportation process.") (cleaned up) (internal quotations and citations omitted); *Valencia-Mejia v. United States*, No. CV 08–2943 CAS (PJWx), 2008 WL 4286979, at *4 (C.D. Cal. Sept. 15, 2008) ("The decision to detain plaintiff until his hearing before the Immigration Judge *arose from* this decision to commence proceedings[.]") (emphasis added); *Wang v. United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at *6 (C.D. Cal. Aug. 18, 2010) (citing *Khorrami v. Rolince*, 493 F. Supp. 2d 1061 (N.D. Ill. 2007) ("[Plaintiff's] detention necessarily *arises from* the decision to initiate removal proceedings against him.") (emphasis added); *Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008) (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007) ("The [Secretary] may arrest the alien against whom proceedings are commenced and detain that individual until the conclusion of those proceedings. ... Thus, an alien's detention throughout this process *arises from* the [Secretary]'s decision to commence proceedings[]" and review of claims arising from such detention is barred under § 1252(g)) (emphasis added). Put in the Supreme Court's words, detention pending removal is a "specification" of the decision to commence proceedings. *See Reno v. Am.-Arab Anti-Discrimination Comm.* ("*AADC*"), 525 U.S. 471, 485 n.9 (1999) ("§ 1252(g) covers" a "specification of the decision to 'commence proceedings'").

As such, judicial review of the Petitioner's claims is barred by § 1252(g).

G. 8 U.S.C. § 1252(b)(9) bars review of Colina'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, Colina 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 Colina 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 Colina's claims for lack of jurisdiction under § 1252(b)(9). Colina 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).

MACHADO QUESADA ARGUMENT

The same reasons why the Court should dismiss Colina's petition apply to Machado Quesada's Petition. In sum, Machado Quesada 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. In response to Machado

Quesada's Petition, Respondents hereby incorporate by reference all arguments made above in response to Petitioner Colina's Petition.

Machado Quesada has also failed to state a claim for unreasonable detention under *Zadvydas* for the same reason as Petitioner Medina. Most glaringly, Machado Quesada is not subject to a final removal order, so *Zadvydas* just does not apply. But even if he were subject to a final removal order, Machado Quesada been in custody since September 6, 2025 – less than the 6-month period of detention necessary to state a claim under *Zadvydas* and *Akinwale*. In addition, he has not met his burden of proving there is no significant likelihood that he will be removed. *Callender*, 281 F. Supp. 3d at 434 (describing how *Zadvydas* "places an initial burden on the detainee" to establish that the "no significant likelihood" standard has been met).

MASH GARCIA ARGUMENT

Although a lawful permanent resident at the time, Mash Garcia left the United States at some point and returned to the country on January 11, 2016, applying for admission at Miami International Airport. At that time, he had been convicted in Virginia of crimes of moral turpitude and was categorized as an alien seeking admission under 8 U.S.C. § 101(a)(13)(C)(v) (providing that a lawful permanent resident shall not be regarding as seeking admission *unless* the alien "has committed an offense identified in section 1182 of this title unless the alien has been granted relief under section 1182(h) or 1229b(a)"). *See* 8 U.S.C. § 1182(a)(2)(A)(i) (providing that an alien convicted of, or who admits having committed, a crime involving moral turpitude is inadmissible); *see also Jallim v. U.S. Att'y Gen.*, 712 F. App'x 970, 972 (11th Cir. 2017) ("[L]awful permanent residents who commit certain crimes before departing the United States, such as a crime involving moral turpitude, are regarded as seeking admission and can be charged with inadmissibility.").

Mash Garcia's convictions for Assault and Battery on Law Enforcement, in violation of Virginia Code 18.2-57, and Forging Coin and Bank Notes and Other Forgery/Uttering, in violation of Virginia Code 18.2-170, qualify as crimes of moral turpitude[5] subject to 8 U.S.C.

[5] The term "moral turpitude" is not defined by statute. However, courts have observed that it involves "[a]n act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man." *United States v. Gloria*, 494 F.2d 477, 481 (5th Cir.1974). "Whether a crime involves the depravity or fraud necessary to be one of moral turpitude depends upon the inherent nature of the offense, as defined in the relevant statute, rather than the

§ 1226(c)(1)(A) and include "assault of a law enforcement officer" subject to 8 U.S.C. § 1226(c)(1)(E)(ii) and, as such, they render Mash Garcia inadmissible under 8 U.S.C. § 1182(a)(2).

Aliens like Mash Garcia, who seek admission into the United States at a port-of-entry and are inadmissible under § 1182(a)(2)(A)(i), are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *Ferreras v. Ashcroft*, 160 F. Supp. 2d 617, 622–23 (S.D.N.Y. 2001) (denying habeas and confirming detention under § 1225(b) of a re-entering lawful permanent resident who was inadmissible under § 1182(a)(2)(A)); *see generally Jennings v. Rodriguez*, 583 U.S. 281, 287, 138 S. Ct. 830, 837, 200 L. Ed. 2d 122 (2018). In *Jennings*, the Supreme Court held that the mandatory detention under § 1225(b)(2) is not subject to an "implicit limit on time" as Petitioner suggests. *Id.* at 297-98. Rather, the Court held that "[t]he plain meaning… is that detention must continue until… removal proceedings have concluded." *Id.* at 298. Here, removal proceedings have not concluded, as the immigration judge's order is not final while an appeal to the BIA is pending. *See* 8 C.F.R. Section 1003.39.

As explained elsewhere herein, applicants for admission may only be released from detention if DHS invokes its discretionary parole authority under 8 U.S.C. § 1182(d)(5). 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). [6] 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, the Court lacks jurisdiction to grant the relief Mash Garcia seeks.

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circumstances surrounding a defendant's particular conduct." *Itani v. Ashcroft*, 298 F.3d 1213, 1215–16 (11th Cir.2002). Thus, in deciding whether a particular offense constitutes a crime involving moral turpitude, courts apply the categorical approach and look to the statutory definition of the crime rather than the underlying facts of the conviction. *See Fajardo v. United States Att'y Gen.*, 659 F.3d 1303, 1305 (11th Cir.2011).

[6] In *Jennings*, the Supreme Court placed significance on the fact that 8 U.S.C. § 1182(d)(5) is the specific provision that authorizes release from detention under 8 U.S.C. § 1225(b), at DHS's discretion. *Jennings*, 583 U.S. at 300. Specifically, the Supreme Court emphasized that "[r]egardless of which of those two sections authorizes . . . detention, [8 U.S.C. § 1225(b)(1) or (b)(2)(A)], applicants for admission may be temporarily released on parole . . . ." *Id.* at 288.

The Court should dismiss or deny Mash Garcia's habeas petition because he is properly detained and ineligible for release or consideration of release on bond.

PEREZ-VASQUEZ ARGUMENT

The same reasons why the Court should dismiss Colina's and Machado Quesada's Petitions apply to Perez-Vasquez's Petition. In sum, Perez-Vasquez 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. In response to Perez-Vasquez's Petition, Respondents hereby incorporate by reference all arguments made above in response to Petitioner Colina's Petition.

CONCLUSION

For the reasons above, the Court should dismiss or deny each of the subject Petitions for Writ of Habeas Corpus.

Respectfully submitted.

JASON A. READING QUIÑONES
UNITED STATES ATTORNEY

/s/ Carlos Raurell
ASSISTANT U.S. ATTORNEY
Fla. Bar. 529893
U.S. Attorney's Office
99 N.E. 4th Street, Suite 300
Miami, Florida 33132
Telephone: (305) 961-9243
E-mail: carlos.raurell@usdoj.gov

Attorney for Respondents