UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSE GREGORIO CASTRO TREJO,

Petitioner, Case No. 2:26-cv-258-SPC-NPM

v.

WARDEN DAVID HARDEN, et al.,

Respondents.
_____/

RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Jose Castro Trejo seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by U.S. Immigration and Customs Enforcement and seeking his immediate release from custody. His petition should be denied. This case is distinct from recent immigration habeas cases filed in this district, which have primarily dealt with petitioners who—critically—had not been paroled into the United States. Petitioner, however, received such a temporary parole. Because his parole has now ended, Petitioner is restored to the status he had prior to parole as an applicant for admission; he is therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2).[1]

[1] The only appropriate respondent to a habeas case is the official with physical custody of Castro Trejo. 28 U.S.C. § 2243 ("The writ, or order to show cause shall be directed to the person having custody of the person detained."); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36

BACKGROUND

Castro Trejo is a native and citizen of Venezuela who entered the United States without inspection on or about August 6, 2022, at or near Eagle Pass, Texas. (Composite Exhibit, Ex. 1 at 1.) He was apprehended that same day and paroled into the United States through October 6, 2022. *Id.* at 4-5, 10.

On October 17, 2025, Castro Trejo was arrested by Hialeah Police on a bench warrant for having no valid driver's license. *Id.* at 3. He was transferred to ICE custody on October 20, 2025. *Id.* at 11.

On February 10, 2026, Castro Trejo declined voluntary departure and was ordered removed to Ecuador. *Id.* at 8-9. Any appeal to the Board of Immigration Appeals is due March 12, 2026. *Id.* at 9. He is currently detained at Glades County Detention Center.

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(2004) ("[T]he default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."). Accordingly, the only proper respondent in this case is the Warden of Glades County Detention Center in his official capacity. *See e.g., Vandersnick v. Sec'y, Fla. Dep't of Corr.*, No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021).

ARGUMENT

I. The Court lacks jurisdiction over Castro Trejo's claims.

Federal courts have limited jurisdiction and "possess only that power authorized by Constitution and statute." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). In this case, 8 U.S.C. § 1252(g) divests this Court's jurisdiction to consider Castro Trejo's claims of unlawful detention. Further, he has failed to exhaust other remedies available to him before turning to the District Court for intervention.

There is no jurisdiction to review "any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013). This provision bars habeas review in federal courts when the claim arises from "discrete acts of commencing proceedings, adjudicating cases, and executing removal orders." *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 483 (1999) (cleaned up). These activities "represent the initiation or prosecution of various stages in the deportation process" that Congress had "good reason" to withhold from judicial review. *Id.*

This bar is subject to limitations and must be applied "to just those three specific actions" listed. *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In doing so, "courts must focus on the action being challenged." *Canal A Media Holding, LLC v. USCIS*, 964

F.3d 1250, 1258 (11th Cir. 2020). Detaining an alien while a removal determination remains pending constitutes an action taken to commence proceedings. *Gupta*, 709 F.3d at 1065; *see also Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("Because [the alien] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*."); *Johnson v. U.S. Att'y Gen.*, 847 F. App'x 801, 802 (11th Cir. 2021). "By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process." *Alvarez*, 818 F.3d at 1203. Here, Castro Trejo is being detained "while awaiting a removal determination." *Gupta*, 709 F.3d at 1065. Under *Gupta*'s binding interpretation of Section 1252(g), the Court has no jurisdiction. *Id.* The Court must therefore dismiss this action for lack of subject matter jurisdiction.

II. Castro Trejo's detention comports with the INA and the Due Process Clause of the Fifth Amendment.

Title 8 U.S.C. § 1225—applicable to "applicants for admission," that is, aliens present in the United States who have not been admitted—is the specific detention authority applicable to Castro Trejo. Under § 1225(a), an "applicant for admission" is defined as an "alien present in the United States who has not been admitted or who arrives in the United States." Applicants for admission "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)(2)—the provision relevant here—is the "broader" of the two. *Id.* It "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here)." *Id.* And § 1225(b)(2) mandates detention. *Id.* at 297; *see also* 8 U.S.C. § 1225(b)(2); *Matter of Q. Li,* 29 I & N. Dec. at 69 ("[A]n applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)."); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025).

The present case is factually and legally distinct from recent cases finding § 1225(b)(2) an inapplicable basis for detention. Here, the record establishes that Castro Trejo received temporary parole into the United States on August 6, 2022, through October 6, 2022. *Id.* at 10. The INA allowed Castro Trejo's otherwise mandatory § 1225(b)(2) detention to be suspended, enabling his parole into the United States subject, however, the government's right to treat him "as if stopped at the border." *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

Here, the agency record indicates Castro Trejo's parole expired on October 6, 2022, restoring him to applicant for admission. *See* Composite Exhibit, Ex. 1 at 10; *see also Chanaguano Caiza v. Scott*, No. 1:25-CV-00500-JAW, 2025 WL 3013081, at *6

(D. Me. Oct. 28, 2025) (holding the petitioner's parole automatically terminated upon expiration subjecting him to mandatory detention).[2] For noncitizens who have never been "been admitted into the country pursuant to law . . . the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law." *Thuraissigiam*, 591 U.S. at 139. Castro Trejo is therefore lawfully detained under 8 U.S.C. § 1225(b)(2).

Finally, Respondents contend that should this Court determine that Petitioner's detention is subject to 8 U.S.C. § 1226, outright release is inappropriate. To the extent the Court orders a bond hearing before an Immigration Judge for the purpose of determining whether Petitioner is a flight risk or danger to the community—*see, e.g., Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *6 (M.D. Fla. Oct. 31, 2025)—Respondents aver that such bond hearings are not conducted or managed by ICE, rather by the Executive Office for Immigration Review, which is not a proper party to this suit. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004) (noting that for habeas petitions challenging detention, "the default rule

[2] Although other district courts have reached the opposite conclusion, *see Ivonin v. Rhoney, No. 6:25-CV-06673 EAW*, 2026 WL 199283, at *4 (W.D.N.Y. Jan. 26, 2026) (collecting cases), this Court should follow follow *Thuraissigiam* and find Castro Trejo's parole permits ICE to consider him "as if stopped at the border." *See* 591 U.S. at 139; *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citing a "paroled" alien as an example of one who has never entered the United States) (*quoting Leng May Ma v. Barber*, 357 U.S. 185, 188–190 (1958)).

is that the proper Respondents is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official").

CONCLUSION

Respondents respectfully request Castro Trejo's petition be denied.

DATED this 17th day of February, 2026.

Respectfully submitted,

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