

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 26-20982-CIV-MOORE

(previously consolidated with Case Nos. 26-21092-CIV-MOORE, 26-21152-CIV-MOORE, 26-60469-MOORE, and 26-21210-CIV-MOORE)

LUIS FRANCISCO LACAYO DELGADILLO,
Petitioner,

v.

WARDEN, KROME NORTH SERVICE
PROCESSING CENTER, et al.,
Respondent.

_____ /

JIMY ORLANDO ZELAYA CALERO,
Petitioner,

v.

PAMELA BONDI, U.S. Attorney General, et al.,
Respondents.

_____ /

DARVIN CRISLER CORONADO-CORONADO,
Petitioner,

v.

GARRETT J. RIPA, Field Office Director, Miami
Field Office, Immigration and Customs Enforcement, et al.,
Respondents.

_____ /

IN RE: ROBERTO JOSE CORDOVA PEREZ

_____ /

ERICK ANTONIO PEREZ HERNANDEZ,
Petitioner,

v.

WARDEN, KROME NORTH PROCESSING CENTER,
Respondent.

RESPONSE TO ORDER TO SHOW CAUSE

Respondents hereby respond to the Court's Order to Show Cause why the Petitions for Writ of Habeas Corpus should not be granted.

INTRODUCTION

Observing common questions of law or fact, the Court has consolidated the five cases captioned above. As shown below, the Petitioners' cases differ in meaningful ways, but no Petitioner is entitled to the relief he seeks.

BACKGROUND AND IMMIGRATION PROCEEDINGS

Lacayo Delgadillo

Petitioner Lacayo Delgadillo is a Nicaraguan citizen who was apprehended after entering the United States in Arizona in 2021 and issued a Notice of Expedited Removal under 8 U.S.C. § 1225(b)(1) but was released from custody on his own recognizance. Lacayo Petition at ¶ 26, 28. As required by the statute, after Lacayo Delgadillo indicated a desire to apply for asylum, he was referred for a credible fear interview by an asylum officer. *Id.* at ¶ 29. Lacayo appeared for his interview, which was conducted on December 22, 2025. *Id.* Lacayo Delgadillo was taken into custody following his credible fear interview and he has remained in ICE custody at Krome North Service Processing Center since then. *Id.* at ¶ 30.

Lacayo Delgadillo argues that he is entitled to a bond hearing under 8 U.S.C. § 1226(a) (First Claim for Relief) and that his detention without a bond hearing violates his constitutional due process rights (Second Claim for Relief). He demands an order requiring either his immediate release from custody or the provision of a bond hearing. Petition at 11. As demonstrated below, Lacayo Delgadillo is lawfully detained without bond pursuant to the expedited removal provisions of 8 U.S.C. § 1225(b)(1) and the Court lacks jurisdiction to hear his claims.

Zelaya Calero

Petitioner Zelaya Calero is a Honduran citizen who entered the United States without inspection. *Zelaya* Petition at ¶ 16. He was apprehended by immigration authorities on December 3, 2025. *Id.* at ¶ 17. Zelaya Calero is in the custody of ICE at Federal Detention Center Miami pending removal proceedings under 8 U.S.C. § 1229a. *See* Exhibits A and B, *Zelaya's* Detention History and Notice to Appear, respectively.

Zelaya Calero claims that his detention violates his substantive and procedural due process rights (Counts One and Two), that cannot be detained under 8 U.S.C. § 1225(b)(1) because that section applies only to aliens who have not been continuously present in the United States for the two year period immediately prior to the date of the determination of inadmissibility (Count Three, quoting 8 U.S.C. § 1225(b)(1)(A)(iii)(II)); and that the denial of release pursuant to 8 U.S.C. § 1226(a) is arbitrary, capricious and not in accordance with the INA and thus a violation of § 702 of the Administrative Procedure Act (Count Four). He demands an order requiring either his immediate release from custody or the provision of a bond hearing.

As shown below, Zelaya Calero is not detained under the expedited removal provisions of 8 U.S.C. § 1225(b)(1), as his arguments suggests, but instead as an applicant for admission under 8 U.S.C. § 1225(b)(2). The Court lacks jurisdiction to hear his claims and his claims fail on the merits.

Crisler Coronado

Petitioner Darwin Crisler Coronado-Coronado is a Guatemalan citizen entered the United States without inspection in December of 2017. *Crisler* Petition at ¶ 15. Crisler was previously in removal proceedings, but those proceedings were dismissed in November of 2024. *Id.* at ¶ 25 and Exhibits 6 and 9.

On January 21, 2026, Petitioner was issued a Notice to Appear for new removal proceedings under 8 U.S.C. § 1229a. *Id.* at Exhibit 11. The NTA charged Petitioner with removability pursuant to section 8 U.S.C. § 1182(a)(6)(A)(i), in that he is present in the United States without being inspected or paroled, or arrived in the United States at a time or place other than as designated by the Attorney General, and section § 1182(a)(7)(A)(i), in that at the time of his application for admission, he was not in possession of an unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, 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. *Id.*

On January 22, 2026, a Florida Highway Patrol Trooper arrested Crisler and he was transferred to ICE custody. *Id.* at ¶¶ 29, 30. Crisler is detained pending the removal proceedings at Krome North Service Processing Center. *Id.* at ¶ 2.

Crisler argues that his detention without bond violates “the governing statutory and regulatory scheme, as interpreted by the Supreme Court” (Count I); that his detention also violates § 706 of the Administrative Procedure Act because it is arbitrary, capricious, an abuse of discretion and otherwise not in accordance with the law” (Counts II, III and V); that his detention violates his procedural and substantive due process rights (Counts IV and VI). He demands an order requiring either his immediate release from custody or the provision of a bond hearing.

As explained below, Crisler is lawfully detained under 8 U.S.C. § 1225(b)(2)(B) and the Court lacks jurisdiction to hear his claims.

Cordova Perez

Petitioner Roberto Jose Cordova Perez does not name any respondents in his Petition for Writ of Habeas Corpus. *See* Cordova Petition, generally. Cordova Perez is a native and citizen of Cuba, is currently in ICE custody at the Broward Transitional Center. *See* Exhibits C and D, Cordoba’s Notice to Appear and Detention History, respectively. Cordova Perez entered the United States without admission or inspection on or about February 27, 2022, near Eagle Pass, Texas. *See* Exhibit C, Cordoba’s NTA. He was placed into removal proceedings under 8 U.S.C. § 1229a and released from custody on his own recognizance. *Id.* On motion of the Department of Homeland Security, Cordova Perez’s § 1229a removal proceedings were dismissed by an Immigration Judge on November 18, 2025. *See* Exhibit E, IJ Order Dismissing Cordoba’s § 1229a proceedings. Cordova Perez appealed that dismissal to the Board of Immigration Appeals. *See* Exhibit F, Cordova’s Appeal Filing Receipt. Cordova Perez remains detained as an applicant for admission under 8 U.S.C. § 1225(b)(2) while his appeal is pending before the BIA.

Hernandez Perez

Erick Hernandez Perez is a native and citizen of Guatemala. *See* Exhibit G, Perez’s I-213 from 2020. On December 28, 2020, Hernandez Perez was transferred to the custody of ICE from the Palm Beach County Jail following his arrest for driving under the influence. *Id.* On January 15, 2021, ICE filed a Notice to Appear with the Executive Office for Immigration Review alleging that Hernandez Perez was inadmissible based on his illegal entry into the United States without having been admitted or paroled, in violation of INA § 212(a)(6)(A)(i), and that he was not in

possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document, in violation of INA § 212(a)(7)(A)(i). Exhibit H, NTA. On March 2, 2021, an Immigration Judge denied Hernandez Perez's application for cancellation of removal for nonpermanent residents pursuant to Section 8 U.S.C. § 1229a and denied voluntary departure. *See* Exhibit I. Petitioner timely appealed the Immigration Judge's decision to the Board of Immigration Appeals (BIA). On April 16, 2021, Petitioner was released from ICE custody on an order of recognizance on Form I-220A ("OREC"). *See* Exhibit J, Perez's 2025 I-213

On October 6, 2025, Hernandez Perez's OREC was revoked pursuant to 8 CFR 236.1(c)(9) and he was taken back into ICE custody. *Id.* Hernandez Perez is currently detained at Krome Service Processing Center. On December 31, 2025, the BIA dismissed Petitioner's appeal regarding his application for cancellation of removal for nonpermanent residents. *See* Exhibit K. The BIA remanded, however, for the sole issue of voluntary departure. *Id.* Thus, Hernandez Perez's proceedings under 8 U.S.C. § 1229a continue and he remains detained as an applicant for admission under 8 U.S.C. § 1225(b)(2)

LACAYO DELGADILLO ARGUMENT

I. The Court Lacks Jurisdiction to Review DHS's Decision to Place Lacayo Delgadillo in Expedited Removal Pursuant to 8 U.S.C. § 1225(b)(1).

An alien present in the United States without admission or parole may be removed from the United States by expedited removal under 8 U.S.C. § 235(b)(1) or removal proceedings before an immigration judge under 8 U.S.C. § 1229a. *See* 8 U.S.C. § 1225(b)(1); 8 U.S.C. § 1229(a). DHS has the discretion to place aliens in expedited removal under 8 U.S.C. § 1225(b)(1) or to initiate removal proceedings before an immigration judge under 8 U.S.C. § 1229a. *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 524 (BIA 2011). Further, the governing regulations do not limit the Department of Homeland Security's authority to choose between expedited removal and removal proceedings to the time of the initial encounter but rather authorize DHS to initiate expedited removal at any time as long as an alien fits within specified criteria. 8 C.F.R. § 235.3(b)(1)(ii). (emphasis added).

DHS may place an alien in expedited removal under § 1225(b)(1) if the alien "has not been admitted or paroled into the United States" and if, upon screening, the alien "has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the

determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(iii)(II). The “burden of proof rests with the alien to affirmatively show that he or she has the required continuous physical presence in the United States.” 8 C.F.R. § 235.3(b)(ii). An alien who was not inspected and admitted or paroled into the United States, who satisfies an immigration officer that he or she has been continuously physically present in the United States for the 2-year period immediately prior to the date of determination of inadmissibility, is not placed in expedited removal under 8 U.S.C. § 1225(b)(1), but “shall be detained in accordance with section [8 U.S.C. § 1225(b)(2)] for a proceeding under [8 U.S.C. § 1229a].” 8 C.F.R. § 235.3(b)(ii). An alien who does not make such a showing may be placed in expedited removal under 8 U.S.C. § 1225(b)(1).

Here, the Department of Homeland Security placed Lacayo Delgadillo in expedited removal pursuant to 8 U.S.C. § 1225(b)(1). Insofar as Lacayo Delgadillo challenges DHS’s decision to place him in expedited removal, the Court lacks jurisdiction to review the decision. Congress has “significantly limited the power of federal courts to review [8 U.S.C.] § 1225(b)(1) expedited removal orders.” *United States v. Herrera-Orozco*, No. C-11-542, 2011 WL 3739160, at *1 (S.D. Tex. Aug. 23, 2011) (citing *Brumme v. INS*, 275 F.3d 443, 447 (5th Cir. 2001)).

The Court also lacks jurisdiction over Lacayo Delgadillo’s challenge to his detention because arose from the expedited removal process. Based on the plain language of Congress’s amendments to the Immigration and Nationality Act (INA) in 1996, federal courts lack subject matter jurisdiction to hear any claims “arising from” or “relating to” the expedited removal process established under 8 U.S.C. § 1225(b)(1). *See* 8 U.S.C. § 1252(a)(2)(A)(i). Because each Petitioner’s detention was a necessary part of the expedited removal process, it “arises from” and is “related to” that process, such that Congress’s plain language in 8 U.S.C. § 1252(a)(2)(A)(i) precludes federal court review Lacayo Delgadillo’s habeas claim.

Section 1252(a)(2)(A)(i) and (iii) state in pertinent part: “[n]otwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review . . . any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 1225(b)(1) [i.e., an order of expedited removal],” or “the application of [§ 1225(b)(1)] to individual aliens, including the [credible-fear] determination made under section 1225(b)(1)(B),” except as provided in section 1252(e). 8 U.S.C. § 1252(a)(2)(A)(i), (iii).

Subsection 1252(e) permits habeas review of expedited removal determinations but limits review to three particular questions: (A) whether the petitioner is an alien, (B) whether the petitioner was ordered removed under such section, and (C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence” or has been admitted as a refugee or been granted asylum. None of these enumerated exceptions allowing judicial review are present in this case. And the Court’s ability to determine whether a habeas petitioner is, in fact, an “alien,” as permitted by § 1252(e)(2)(A), is limited to determining whether the petitioner is “not a citizen or national of the United States.” *See* 8 U.S.C. § 1101(a)(3) (defining “alien” as used in this chapter).

Congress established the expedited removal system through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which amended the INA, to aggressively expedite removal of aliens lacking a legal basis to remain in the United States. *Kucana v. Holder*, 558 U.S. 233, 249 (2010). The expedited removal system was adopted in large part to address the growing number of smuggled aliens who arrived in the United States with no entry documents, declared asylum immediately upon arrival, and then overcrowded immigration court dockets and detention centers, in some cases only to be released into the general population. H.R. Rep. No. 104-469, at 107, 117-18 (Conf. Rep.) (1996). Under the expedited removal system, in accordance with 8 U.S.C. § 1225(b)(1) and 8 U.S.C. § 1252(a)(2)(A)(i), aliens who illegally cross the border without valid entry documents or a visa may be placed in expedited removal proceedings, and DHS’s decisions in implementing and executing the expedited removal proceedings are not subject to judicial review.

Lacayo Delgado’s detention “arises from” and “relates to” the operation and implementation of his removal. Indeed, as another district court has explained, his detention is a “secondary, temporary, and constitutionally permissible aspect of the expedited removal process” itself. *Castro v. Department of Homeland Security*, 163 F. Supp. 3d 157, 173 (E.D. Pa. 2016), *aff’d*, 835 F.3d 422 (3d Cir. 2016); *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) (explaining that “[d]etention is necessarily part of [the] deportation procedure” because otherwise aliens arrested for deportation could hurt the United States while awaiting deportation proceedings); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (explaining that “[p]roceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation”). Since Lacayo

Delgadillo's detention is necessarily related to the operation and implementation of his expedited removal order, the propriety of his continued detention cannot be reviewed by this Court based on subsection 1252(a)(2)(A)(i).

Such limitations on judicial review fall within Congress's plenary power over the admission of aliens. *See Kleindienst v. Mandel*, 408 U.S. 753, 766 (1972) (quoting *Boutilier v. INS*, 387 U.S. 118, 123 (1967)). For inadmissible aliens who unlawfully enter the United States, "[w]hatever the procedure authorized by Congress is, it is due process." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (internal citations omitted). Thus, where Congress has indicated its intent to preclude judicial review of a determination made by one of the political branches with respect to an alien deemed inadmissible just after crossing the border, this Court lacks subject matter jurisdiction. Petitioner's detention falls within Congress's stated limitations on judicial review, and Petitioner has not met his burden of establishing subject matter jurisdiction. *See Montelier Chaviano v. Bondi et al.*, Case No. 25-CV-22451-MD (ECF No. 32 at 9) ("This Court agrees with Respondents that the jurisdiction-stripping provisions of Sections 1252(a) and (e)(2) apply to bar Petitioner's habeas petition.").

Consistent with the provisions of 8 U.S.C. § 1252, courts in this district have agreed that no jurisdiction exists in district court for challenges, like those made by Petitioner here, to expedited removal. *See, e.g., Torrez v. Swacina*, 2020 U.S. Dist. LEXIS 68977, at *6-10; 2020 WL 13551822, No. 20-20650-CV-Altonaga/Goodman (S.D. Fla. Apr. 17, 2020) (dismissing habeas petition and finding the court lacked jurisdiction to hear the petitioner's challenge related to expedited removal); *Del Cid v. Barr*, 394 F.Supp.3d (S.D. Fla. 2019) (finding jurisdiction-stripping provisions of the INA foreclose review of expedited removal order, provision did not violate Suspension Clause, and alien not entitled to emergency stay of removal). Congress has made clear in 8 U.S.C. § 1252 that it created no avenue for judicial review of a challenge to the expedited removal process—including the conduct of the credible fear interview and determination—and Lacayo Delgadillo's claims do not fall within the limited categories of 8 U.S.C. § 1252(e) for which judicial review is available.

II. Lacayo Delgadillo is Detained Under the Authority Provided in 8 U.S.C. § 1225(b)(1), Which Requires Mandatory Detention Without Bond.

Lacayo Delgadillo suggests that he is entitled to a bond hearing under 8 U.S.C. § 1226(a), but that is incorrect. Petitioner is not eligible for a bond hearing because he is in expedited removal

and detained under the authority provided in 8 U.S.C. § 1225(b)(1) – *not* 8 U.S.C. § 1226(a). This is true even if Petitioner is applying for asylum. Under 8 U.S.C. § 1225, “[i]f immigration officials determine that [an] alien is inadmissible because of certain misrepresentations or lack of proper documentation, the alien is to be removed without further hearing or review unless the alien indicates an intention to apply for asylum or a fear of persecution.” *Florida v. United States*, 2022 WL 2431414, at *2 (N.D. Fla. May 4, 2022) (Wetherell, J.) (cleaned up). In such cases, an alien who enters the country intending to apply for asylum is referred “for an interview by an asylum officer.” 8 U.S.C. § 1225(b)(1)(A)(ii). “If the officer determines at the time of the interview that [the] alien has a credible fear of persecution[,] the alien *shall be detained for further consideration of the application for asylum.*” *Id.* § 1225(b)(1)(B)(ii) (emphasis added). This detention is mandatory. *See id.* § 1225(b)(1)(B)(iii)(IV) (“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.” (emphasis added)).

The Attorney General, in *Matter of M-S-*, unequivocally recognized that 8 U.S.C. §§ 1225, which requires detention, and 1226(a), which allows for consideration of release on bond, do not overlap but describe “different classes of aliens.” 27 I&N Dec. at 516. The Attorney General also held that aliens present without admission and placed into expedited removal proceedings are detained under 8 U.S.C. § 1225 even if like Petitioners here, they are later placed in 8 U.S.C. § 1229(a) removal proceedings. 27 I&N Dec. at 518-19.

Accordingly, Lacayo Delgadillo is in expedited removal under 8 U.S.C. § 1225(b)(1) and ineligible for release on bond. *See* Order at ECF No. 22 in *Buriev v. Warden, Broward Transitional Center*, Case No. 25-60459-CIV-ALTMAN (entered September 26, 2025) (finding that 8 U.S.C. § 1225(b)(1) required detention of alien seeking asylum).

III. Lacayo Delgadillo’s Detention Does Not violate the Due Process Clause of the Fifth Amendment.

As for Lacayo Delgadillo’s due process claim, detention pending determination of a request for asylum does *not* violate the due process clause of the Fifth Amendment – even where the length of detention is lengthy. *See Chaviano v. Bondi.*, Case 1:25-cv-22451-MD, DE 32 at 17-18 (S.D. Fla. June 23, 2025):

To the contrary, there is ample authority for the principle that detention, even for far longer periods, pending immigration proceedings does not violate due process rights. *See, e.g., O.D. v. Warden, Stewart Det. Ctr.*, No. 4:20-CV-222-CDL-MSH,

2021 WL 5413968, at *5 (M.D. Ga. Jan. 14, 2021), *report and recommendation adopted*, 2021 WL 5413966 (M.D. Ga. Apr. 1, 2021) (denying due process challenge to nineteen months in immigration custody, nothing, “a significant factor weighing against a finding that Petitioner’s detention has become unreasonably prolonged is the fact that he has been provided with a bond hearing, a custody re-determination, and BIA *de novo* review of the [Immigration Judge]’s custody decision”); *Sigal v. Searls*, No. 1:18-CV-00389, 2018 WL 5831326, at *5, 9 (W.D.N.Y. Nov. 7, 2018) (denying habeas relief to petitioner detained for seventeen months after “tak[ing] into account all of the factual circumstances”); *see also Hylton v. Shanahan*, No. 15-CV-1243-LTS, 2015 WL 3604328, at *6 (S.D.N.Y. June 9, 2015) (detention without bail for roughly two years did not violate due process); *Luna-Aponte v. Holder*, 743 F. Supp. 2d 189, 197 (W.D.N.Y. 2010) (three years).

As Respondents point out, Petitioner has not submitted evidence that he has been detained for any other purpose than resolution of his removal proceedings. *See Resp.* at 17–18. Taking into consideration all of the circumstances presented here, this Court finds Petitioner has not shown a basis for finding that his due process rights have been violated as the result of his detention.”

Chaviano, Case 1:25-cv-22451-DAMIAN, DE 32 at 17-18.

Lacayo Delgadillo’s due process claim here fares no better.

ZELAYA CALERO, CRISLER CORONADO-CORONADO AND HERNANDEZ PEREZ

ARGUMENT¹

¹ The government submits the following arguments in good faith, supported by the Fifth Circuit Court of Appeals’ decision in *See Buenrostro-Mendez v. Bondi*, No. 25-20496, 25-40701, ___ F. 4th ___, 2026 WL 323330 (5th Cir. Feb. 6 2026) and decisions rendered 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., 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*); and *Mokanu v. Warden, Federal Detention Center Miami*, No. 25-24121-ARTAU, ECF No. 19 (S.D.Fla. Feb. 19, 2026) (holding that 8 USC 1252(g) prohibits the Court in a habeas proceeding from reviewing the denial of bond to a person present without admission or parole who is detained pursuant to 8 U.S.C. § 1225, and, on the merits, finding that petitioner who had been present in the country for years on humanitarian parole was an applicant for admission and subject to detention under 8 USC 1225(b)(2)).

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

Unlike Petitioner Lacayo Delgadillo, who is in expedited removal under 8 U.S.C. § 1225(b)(1) and detained accordingly, Petitioners Zelaya Calero, Crisler Coronado and Hernandez Perez are in removal proceedings under 8 U.S.C. § 1229a and detained pursuant to 8 U.S.C. 1225(b)(2).

A. These Petitioners are Applicants for Admission subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226(a) is Inapplicable.

These Petitioners are properly detained as an applicants 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-SINGHAI., 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*); and *Mokanu v. Warden, Federal Detention Center Miami*, No. 25-24121-ARTAU, ECF No. 19 (S.D.Fla. Feb. 19, 2026) (same; and holding that 8 USC 1252(g) prohibits the Court in a habeas proceeding from reviewing the denial of bond to a person detained pursuant to 8 U.S.C. § 1225).

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

detention”); and *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)”).

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).

These Petitioners entered the United States without inspection. They are aliens present in the United States without admission or parole and, consequently, applicants for admission – even though they have resided in the country for several years. *See Buenrostro-Mendez*, at *2, 4-5. An alien's status as an applicant for admission does not turn on where or how the alien entered the United States; an alien present without inspection or admission is necessarily an “applicant for admission” and “seeking admission,” as contemplated in 8 U.S.C. § 1225(b)(2).

The Fifth Circuit's decision in *Buenrostro-Mendez* 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. These Petitioners are Properly Detained Pursuant to 8 U.S.C. § 1225(b)(2)(A).

Both arriving aliens and aliens present without admission or parole are applicants for admission 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. See 8 U.S.C §§ 1225(b)(1), (b)(2)(A); *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)”).

These Petitioners are currently in § 1229a removal proceedings and subject to mandatory detention under § 1225(b)(2)(A). Under 8 U.S.C. § 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.

These Petitioners urge the Court to find that their detention (and eligibility for release on bond) is governed 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*, § 1226(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. These Petitioners failed to Exhaust his Administrative Remedies

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

These Petitioners argue that they are not required to avail themselves of the administrative remedies available to him (*see, e.g.*, Crisler Petition at ¶ 32), and 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. *See* <https://www.justice.gov/eoir/eoir-policy-manual/memoranda-pm-list>. Here, each Petitioner’s removal proceedings are pending, thus he has not availed himself of the administrative process and remedies available to him and instead sought relief from this Court. Accordingly, the Petitions should be dismissed for failure to exhaust administrative remedies.

F. 8 U.S.C. § 1252(g) bars review of these Petitioners’ claims.

These Petitioners are essentially asking the Court to prohibit DHS’s commencement of their removal proceedings, but the Court lacks jurisdiction to grant such relief. Section 1252(g) of Title 8, United States Code, 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 Mokuu*, No. 25-24121-ARTAU, ECF No. 19 at 9 (S.D.Fla. Feb. 19, 2026) (“by seeking release from custody “pending removal proceedings,” the “basis of [the petitioner’s] claim” is a challenge to the decision to commence removal proceedings against him, which is plainly barred by § 1252(g); *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’”).

G. 8 U.S.C. § 1252(b)(9) bars review of these Petitioners’ 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 these Petitioners are challenging the basis upon which they are 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).

H. The APA Does not Provide these Petitioners relief

Zelaya Calero and Crisler Coronado-Coronado also present claims under the Administrative Procedure Act, 5 U.S.C § 702, *et seq.*, but the APA provides no relief. The APA provides relief only for final agency action “for which there is no other adequate remedy in court.” 5 U.S.C. § 704. Zelaya Calero and Crisler Coronado-Coronado redundantly brings their APA claims while also seeking relief in the form of a writ of habeas corpus under 28 U.S.C. § 2241. The availability of such relief bars these Petitioner’s APA claims

In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, “necessarily imply the invalidity of their confinement” those claims “must be brought in habeas.” 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, “given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.” *Id.* at 1007 (Kavanaugh, J. concurring). Here, as in *J.G.G.*, habeas is an “adequate remedy” through which the Petitioner can challenge his detention. Even if Petitioner’s APA claims had merit, which they do not, the result would be the same as that in habeas. The Supreme Court’s holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953)).

CORDOVA PEREZ ARGUMENT

Cordova Perez was previously placed in removal proceedings under 8 U.S.C. § 1229a, but on motion of DHS those proceedings have been dismissed and Cordova Perez has appealed the dismissal to the Board of Immigration Appeals. Cordova is thus subject to placement in expedited removal under 8 U.S.C. § 1225(b)(1). Until the BIA resolves Cordova Perez’s appeal, and unless the BIA dismisses the appeal, Cordova Perez remains lawfully detained pursuant to 8 U.S.C. § 1225(b)(2). If the BIA dismisses the appeal and DHS exercises its discretion to place Cordova Perez in expedited removal under 8 U.S.C. § 1225(b)(1), he will be lawfully detained without bond under that statute.

Section 1225 of Title 8, United States Code, 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 may be subject to expedited removal under 8 U.S.C. § 1225(b)(1) or placed in removal proceedings under 8 U.S.C. § 1229a. Under the expedited removal process, applicants for admission arriving in the United States, or as designated by the Secretary of Homeland Security pursuant to 8 U.S.C. § 1225(b)(1)(A)(iii), who lack valid entry documentation or make material misrepresentations, shall be “order[ed] . . . removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under [8 U.S.C. § 1158] or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Applicants for admission whom DHS places in 8 U.S.C. § 1229a removal proceedings are subject to detention under 8 U.S.C. § 1225(b)(2)(A).

Cordova Perez was originally placed in § 1229a removal proceedings, but those proceedings were dismissed upon DHS’s motion and Cordova Perez has appealed the dismissal to the BIA. The appeal is pending as of this writing.

The resolution of Petitioner’s appeal to the BIA will determine whether he will continue subject to detention under 8 U.S.C. § 1225(b)(2), or if his appeal is dismissed, under 8 U.S.C. § 1225(b)(1).²

The lawfulness of detention under 8 U.S.C. § 1225(b)(2) is discussed above with regard to Petitioners Zelaya, Crisler and Hernandez Perez. Those arguments are incorporated here by

² Section 1225(b)(1), allows for the placement of an alien in expedited removal when the alien either lacks entry documentation or seek admission through fraud or misrepresentation. *See* 8 U.S.C. § 1225(b)(1)(A)(i), 8 U.S.C. § 1225(b)(1)(A)(i) (referring to § 212(a)(6)(C), (a)(7), 8 U.S.C. § 1182(a)(6)(C), (a)(7)). In addition, the alien must either be “arriving in the United States” or within a class that the Secretary of Homeland Security (“Secretary”) has designated for expedited removal. The Secretary is allowed to designate for expedited removal “any or all aliens” who have “not been admitted or paroled into the United States” and also have not “been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility.” *Id.* § 235(b)(1)(A)(iii), 8 U.S.C. § 1225(b)(1)(A)(iii). The Secretary has designated additional categories of aliens pursuant to 8 U.S.C. § 1225(b)(1)(A)(iii). *See* Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act, 67 Fed. Reg. 68,924 (Nov. 13, 2002); Designating Aliens for Expedited Removal, 69 Fed. Reg. 48,877 (Aug. 11, 2004) (“2004 Designation”).

reference. The lawfulness of detention pending expedited removal under 8 U.S.C. § 1225(b)(1) is addressed above with regard to Petitioner Lacayo. Those arguments are incorporated here and will apply if the BIA dismisses Cordova Perez's appeal of the dismissal of the § 1229a proceedings.

CONCLUSION

For the reasons provided above, each of the subject Petitions should be dismissed or denied.

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