

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MAIKEL MUNOZ ARENCIBIA,

Petitioner,

Case No. 2:26-cv-709-KCD-DNF

v.

WARDEN, GLADES COUNTY
DETENTION CENTER, U.S.
ATTORNEY GENERAL,

Respondents.

**RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Maikel Munoz Arencibia ("Petitioner") 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. The petition should be denied, as he is as an applicant for admission—apprehended at the border—subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

FACTS

Maikel Munoz Arencibia is a national and citizen of Cuba who last entered the United States on February 10, 2022 at Eagle Pass, Texas. (Composite Ex. 1 at 2.)

He was apprehended on or near the same day and released pending removal proceedings. *Id.* at 2, 5.

On December 31, 2025, Petitioner was arrested in Polk County on a driving charge. *Id.* at 5. Maikel Munoz Arencibia was placed in immigration custody on January 2, 2026. *Id.* at 5. He was served with a Notice to Appear on September 17, 2025. *Id.* at 7-9.

On March 16, 2026, Maikel Munoz Arencibia filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. (Doc. 1.) He is currently detained at Glades County Detention Center.¹

ARGUMENT

I. The Court lacks jurisdiction over Petitioner'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 Maikel Munoz Arencibia's claims of unlawful detention. Further, he has

¹ Pursuant to its Inter-Governmental Services Agreement for Glades County Detention Center, U.S. Immigration and Customs Enforcement requests [Warden of Glades County Detention Center] / [David Hardin] be terminated from this case. *See* Inter-Governmental Services Agreement for Glades County Detention Center, Ex. B at 12; *Mota-Constanzo v. Noem*, 2:26-cv-00369-KCD-DNF, 2026 WL 681819, at *2 & n.2 (M.D. Fla. Mar. 11, 2026).

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, Petitioner 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. Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) the Board of Immigration Appeals (BIA) examined the plain language of Section 1225, the INA’s statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub L. No. 104-208, and DHS’s prior practices. After doing so, the BIA held that “under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the petitioner, who are present in the United States without admission.” 29 I&N Dec. at 225.² This Court should rule the same.

² On February 18, 2026, U.S. District Court for the Central District of California issued an order stating the court “hereby VACATES *Matter of Yajure Hurtado* as contrary to law under the APA.” See *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal.). Respondents submit *Yajure Hurtado* remains persuasive authority in this Court regarding the proper interpretation of 8 U.S.C. § 1225(b)(2). The Court does not need to decide the issue of *Bautista*’s preclusive effect, as Petitioner was

Petitioner's apprehension at the border without being previously admitted qualifies him as an applicant for admission seeking admission under 8 U.S.C. § 1225(b)(2). As stated, Petitioner was first detained at or near the border when he illegally entered the United States. This Court consistently explains its reasoning. *Alfonso Parra v. DHS*, No. 2:25-cv-1116-KCD-DNF, 2026 WL 21243, at *2 (M.D. Fla. Jan. 5, 2026); *Aranda Garcia*, 2025 WL 3537592, at *1; *Duenas Garcia*, 2025 WL 3277163, at *2; *Pirto v. Warden*, No. 2:25-cv-966-KCD-DNF, Doc. 13 (M.D. Fla. Nov. 13, 2025). Likewise, the Court should deny the petition in the present case.

CONCLUSION

Respondents respectfully request the petition be denied.

DATED this 8th day of April, 2026.

Respectfully submitted,

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apprehended at the border and is therefore not a member of its class. *See Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025) (excluding from the class all noncitizens in the United States without lawful status who "were not or will not be apprehended upon arrival").