

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

|                                              |   |                                      |
|----------------------------------------------|---|--------------------------------------|
| <b>CARLOS VENTURA MARTINEZ</b><br>Plaintiff, | ) | <b>CIVIL ACTION NO: 3:25-CV-1445</b> |
|                                              | ) |                                      |
|                                              | ) |                                      |
| <b>v.</b>                                    | ) | <b>JUDGE EDWARDS</b>                 |
|                                              | ) |                                      |
| <b>DONALD J. TRUMP, et al</b><br>Defendants. | ) | <b>MAGISTRATE JUDGE MCCLUSKY</b>     |
|                                              | ) |                                      |
| <hr style="width: 45%; margin-left: 0;"/>    | ) |                                      |

**RESPONSE TO MOTION FOR TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

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Petitioner<sup>1</sup> is an inadmissible alien who eluded discovery by Immigration and Customs Enforcement (“ICE”) for, according to Petitioner, twelve years after entering the United States without inspection. Consequently, based on a plain reading of the applicable statutes, he is deemed an applicant for admission, 8 U.S.C. § 1225(a)(1), and detention is mandatory for the duration of his removal proceeding. 8 U.S.C. § 1225(b)(2)(A). He seeks a temporary restraining order and preliminary injunction requiring that he be granted a bond hearing pursuant to 8 U.S.C. § 1226(a)(2). He is not entitled to either relief because: (1) he is not likely to succeed on the merits of his statutory and due process claims; (2) his detention for the duration his removal proceeding will not cause irreparable harm; and (3) the equities and public interest favor detention. Further, the Motion should also be denied because the Court lacks jurisdiction.

The core issue in this case is identification the proper detention authority and due process requirements for an alien who is present in the United States without being admitted. The Board of Immigration Appeals for the Executive Office of Immigration Review (“BIA”) directly addressed this issue in *Matter of Yajure Hurtado*, finding in a precedential decision that an immigration judge lacks authority to hold a bond hearing for an alien who is present in the United States without having been admitted pursuant to section 235 of the Immigration and Nationality Act, 8 U.S.C. § 1225 (“INA”). 29 I&N Dec. 216 (BIA Sept. 5, 2025)(Exh. A).

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<sup>1</sup> In addition to the motion for TRP and preliminary injunction, Mr. Martinez also filed a petition for a writ of habeas corpus, and will be referred to as Petitioner.

Congress provided that mandatory detention pending removal proceedings is the norm—not the exception—for those who enter the country without inspection and who lack documents sufficient for admission or entry. *See* 8 U.S.C. § 1225(b)(2). And for good reason: detention pending removal proceedings is the historical norm and in this context reflects the reality that aliens have avoided inspection by sneaking into the United States. *See Demore v. Kim*, 538 U.S. 510, 523 (2003) (citing *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)). When Congress enacted 8 U.S.C. § 1225(b) as part of the immigration reforms of 1996, it determined that treating all unadmitted aliens similarly in terms of detention and removal eliminated unintended consequences and perverse incentives that pervaded the prior system, under which undocumented aliens who entered without inspection received more procedural protections—including the ability to seek release on bond—than those who presented themselves for inspection at ports of entry. In essence, the pre-1996 law favored those that entered the U.S. illegally and clandestinely, which Congress sought to end. Through mandatory detention, Congress further ensured that the Executive Branch can give effect to the provisions for removal of aliens. *See Demore*, 538 U.S. at 531.

The crux of this dispute is one of statutory interpretation. Section 1225(b)(2) provides for mandatory detention of any alien “who is an applicant for admission.” And “applicants for admission” specifically includes all “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). It thus does not matter if aliens have successfully evaded U.S. Border Patrol and effected an unlawful entry into the interior of the United States. They

remain “applicants for admission” and thus subject to mandatory detention once apprehended unless paroled by the Department of Homeland Security (“DHS”).

Petitioner essentially claims that the plain language of § 1225(b)(2) does not matter, because the government has in the past treated certain aliens who enter without inspection but who are arrested in the interior as subject to discretionary detention. But this prior practice has no bearing on the legal issues here, as detention is mandated by the plain language of the statute, and Congress’s mandate is supported by eminently reasonable grounds. After all, where—as here—“the words of a statute are unambiguous, this first step of the interpretive inquiry [*i.e.*, construing the statutory text] is [the court’s] last.” *Rotkiske v. Klemm*, 589 U.S. 8, 13 (2019) (citation omitted).

Even assuming the Court has jurisdiction over this veiled challenge to the conduct of removal proceedings, Petitioner is unlikely to succeed on the merits of his claim. Additionally, Petitioner cannot show irreparable harm, and the public interest lies in ensuring enforcement of the immigration statutes. Neither a temporary restraining order nor preliminary injunctive relief is appropriate.

**I. Petitioner is an inadmissible alien who entered the country illegally and without valid immigration documents.**

Petitioner is a native and citizen of El Salvador. He entered the United States at an unknown location on an unknown date, without being inspected by an immigration officer. On June 10, 2025, he was encountered by ICE and taken into ICE custody. Two days later, he was served with a Form I-862 Notice to Appear and shortly thereafter, additional charges of inadmissibility and deportability were added



under section 212(a)(7)(A)(i)(I) of the INA<sup>2</sup> because he was not in possession of valid immigration documents as required by section 211 of the INA.<sup>3</sup> (Exh. B, Declaration of Brandon Bennethum, paras. 3-5).

On July 9, 2025, Petitioner requested bond and a custody determination. On July 17, 2025, the Immigration Judge granted Petitioner a \$12,000 bond. The same day, the Department of Homeland Security (“DHS”) appealed the ruling, which was sustained by the Board of Immigration Appeal (“BIA”) on September 26, 2025. The BIA vacated the IJ’s ruling and found that the Petitioner was subject to mandatory detention and was ineligible for release on bond pursuant to 8 U.S.C. § 1225(b)(2)(A) and *Matter of Yajur Hurtado*, I&N Dec. 216, 220, 228 (BIA 2025). (Exh. B, para. 6-8).

**II. The Petitioner is not entitled to injunctive relief whether by temporary restraining order or preliminary injunction.**

A TRO or preliminary injunction is an “*extraordinary remedy never awarded as of right.*” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (emphasis added). A party seeking a TRO must show: (1) a “substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted; and (4) that the grant of the injunction will not disserve the public interest.” *Janvey v. Alguire*, 647 F.3d 585, 595 (5th Cir. 2011) (quoting *Byrum v. Landreth*, 566 F.3d 442, 445 (5th Cir. 2009)). “[A] movant must

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<sup>2</sup> 8 U.S.C. § 1182(a)(7)(A)(i)(I)

<sup>3</sup> 8 U.S.C. § 1181

demonstrate ‘at least some injury’ for a preliminary injunction to issue.” *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006)). “The same standard applies to both temporary restraining orders and to preliminary injunctions.” *Council on Am.-Islamic Relations v. Gaubatz*, 667 F. Supp. 2d 67, 74 (D.D.C. 2009)(quoting *Chaplaincy, supra*).

**A. The Petitioner is not likely to succeed on the merits.**

Petitioner cannot succeed on the merits, which is a heavy burden and the most important factor a court must consider in evaluating a request for a preliminary injunction. *United States v. Abbott*, 110 F.4<sup>th</sup> 700, 706-707 (5th Cir. 2024). Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. It is the interplay between these statutes that is at issue here.

**1. Petitioner’s mandatory detention is authorized 8 U.S.C. § 1225(b).**

“To implement its immigration policy, the Government must be able to decide (1) who may enter the country and (2) who may stay here after entering.” *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Section 1225 governs inspection, the initial step in this process, *id.*, stating that all aliens who are “applicants for admission . . . shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). Two categories of aliens are deemed applicants for admission: (1) aliens present in the United States who have not been admitted, and (2) aliens arriving in the United States. *Id.* § 1225(a)(1). There is no dispute that Petitioner is an alien present in the United States who has

not been admitted. Consequently, he is deemed an applicant for admission subject to the mandatory detention requirements of section 1225.

Paragraph (b) of § 1225 governs the inspection procedures applicable to applicants for admission. They “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(1) applies to those “arriving in the United States” and “certain other” aliens including, among others, those who have not been admitted or paroled and have been physically present in the United States continuously for the 2-year period immediately prior to the determination of inadmissibility. § 1225(b)(1)(A)(i), (A)(iii)(II). Aliens falling under this subsection are generally subject to expedited removal proceedings “without further hearing or review.” *See id.* § 1225(b)(1)(A)(i).<sup>4</sup>

Section 1225(b)(2) is “broader” than (b)(1), “serv[ing] as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Jennings*, 583 U.S. at 287. Under § 1225(b)(2), an alien who is an applicant for admission “shall be detained for a proceeding under section 1229a” if the examining immigration officer determines that the alien is not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A). Section 1229a outlines the procedures for removal proceedings before an immigration judge, not expedited removal. Petitioner falls squarely within the ambit of section 1225(b)(2)(A)’s mandatory detention requirement because he is an alien present without admission, and therefore an applicant for admission, who has been in the country for more than two years. He

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<sup>4</sup> If the arriving alien makes a claim for asylum, he is subject to mandatory detention for the duration of that proceeding. 8 U.S.C. § 1225(b)(1)(B)(ii).

has not shown he is clearly and beyond doubt entitled to admission, and removal proceedings have been initiated. His detention is required by 1225(b)(2).

Petitioner argues that the plain text of section 1225(b)(2)(A) applies strictly to those subject to expedited removal, citing *Kostack v. Trump et al.*, 2025 WL 2472136 (W.D. La. August 27, 2025), *Lopez Santos v. Noem*, 2025 WL 2642278 (W.D. La. Sep. 11, 2025), and others. [Rec. Doc. 3-1, p. 2]. First, the plain text of section 1225(b)(2)(A) refers to proceedings under 8 U.S.C. § 1229a. Instead, only 1225(b)(1) pertains to expedited removals.

Second, the authorities from this district cited by Petitioner rely heavily on a general dichotomy contained in *Jennings* that did not consider the breadth of alien statuses and should not be followed.<sup>5</sup> In *Jennings*, the Supreme Court reviewed the Ninth Circuit's imposition of a six-month time limit on any detention under 1225(b) and 1226 and periodic bond hearings under 1226(a). *Jennings*, at 292. The Court concluded that detentions pursuant to sections 1225(b)(1) and 1225(b)(2) do not contain six-month time limitations and instead, the duration of mandatory detention extends through the completion of the removal proceedings. *Id.* at 302. Similarly, the Court concluded that detentions pursuant section 1226(c) do not have a six-month time limits, *id.* at 305-306, and section 1226(a) does not require periodic reviews of the bond determinations.

Unfortunately, when describing sections 1225 and 1226, the Court used imprecise language which suggests a dichotomy that § 1225 is for recently arriving

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<sup>5</sup> The authorities cited are contrary to the Government's position.

aliens and § 1226 is for aliens who reside in the country, without regard to the alien's admission status. This dichotomy, however, is not supported by the clear language of the INA which was acknowledged by the *Jennings* Court when it explained that 1225 applies not only to new arrivals but also to "an alien who . . . 'is present' in this country but 'has not been admitted.'" *Jennings* at 287. The *Jennings* Court did not foresee the confusion its language could create because the *Jennings* class representative was an alien who had been granted lawful permanent residence status. *Id.* at 291. As such, he was not an inadmissible alien nor an applicant for admission. *See* 8 U.S.C. § 1182 and §1225(a)(1). Instead, he was an admitted alien. *See*, 8 U.S.C. § 1101(a)(13)(A) and (C).

In contrast, an inadmissible alien who has eluded authorities at the border remains an "applicant for admission" and is not entitled to the same rights under the INA as those afforded to aliens lawfully within the country who have nonetheless been arrested on a warrant issued by the Attorney General. *See*, 8 U.S.C. § 1226(a). Inadmissible aliens who are present in the United States are intended by Congress to be treated as applicants for admission, which the *Jennings* Court recognized:

Under . . . 8 U.S.C. § 1225, an alien who "arrives in the United States," or "is present" in this country but "has not been admitted," is treated as an applicant for admission."

*Id.* at 287. (emphasis added). The presence of the conjunction "or" in the statute clearly indicates *two* categories of aliens who are considered "applicants for admission" in § 1225. The *Jennings* Court did not focus on the second category of aliens, those present in the country but not admitted, such as the Petitioner in this

case. An alien entering illegally and simply eluding authorities for an extended period of time does not render §1225 inapplicable such that the Petitioner can avoid mandatory detention.

The legislative history is instructive. As explained by the BIA in *Yajure Hurtado*, 29 I&N 216 (BIA Sep. 5, 2025), before the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IRIRA”), the INA provided for inspection of only immigrants arriving at a port of entry. *Id.* at 222. Aliens in the United States were put into removal proceedings but were bond eligible. *Id.* at 223.

Congress acted, in part, to remedy the “unintended and undesirable consequence” of having created a statutory scheme where aliens who entered without inspection “could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,” including the right to request release on bond, while aliens who had “actually presented themselves to authorities for inspection were restrained by ‘more summary exclusion proceedings,’” and were subject to mandatory custody. (Citing *Martinez v. Att’y Gen. of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012). . . Thus, after the 1996 enactment of the IIRIRA, aliens who enter the United States without inspection or admission are “applicants for admission” under section 235(a)(1) of the INA, 8 U.S.C. § 1225(a)(1), and subject to the inspection, detention, and removal procedures of section 235(b) of the INA.

*Id.* at 223.

This history supports the result required by the plain language of the statute itself. Indeed, other district courts have recognized that mandatory detention of inadmissible aliens for the duration of their removal proceedings is required by 1225(b)(2). *Lopez v. Trump*, DK 8:25-cv-00526 (D. Neb. 9/30/25)(Exh. C)(Denying habeas relief to inadmissible alien in the country for 12 years based on 1225(b)(2) and inapplicability of 1226); *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal.

9/24/25)(Denying TRO and PI to inadmissible alien based on 1225(b)(2)); *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. 7/28/25)(Denying habeas relief for inadmissible alien in the country for 20 years based on 1225(b)).

Any argument that DHS's interpretation of § 1225 would render § 1226 unnecessary is incorrect. § 1226 is intended for aliens who have been arrested on a warrant issued by the Attorney General and applies to aliens who are not seeking admission. Section 1226 covers aliens who are lawfully present in the United States who are detained pursuant to a warrant issued by the Attorney General. *See*, 8 U.S.C. § 1226(a). Although lawfully present, an alien may still become removable for certain reasons, subjecting them to “arrest and detention pending a decision on whether the alien is to be removed from the United States.” This was precisely the case with the petitioner in *Jennings*, who was entitled to a bond hearing under § 1226. He was subject to 1225(b)(2) for the reason that he was not an “applicant for admission” and not because he was “present in the United States”, despite the imprecise language used by the Court in its decision.<sup>6</sup>

Additionally, 1226(a) does not apply to this matter because Petitioner has not proven that he was arrested and detained pursuant to a warrant issued by the Attorney General and therefore does not qualify for a bond hearing under 1226(a). In his motion for TRO and Preliminary Injunction, he characterizes his arrest as “sudden” and “collateral.” [Rec. Doc. 3-1, p. 3]. In his Petition for Writ of Habeas Corpus, he states he was detained while ICE was searching for a wanted gang

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<sup>6</sup> Even if there is overlap, that is not a basis to render 1225(b) null and void. *See, Barton v. Barr*, 590 U.S. 222, 239 (2020).

member. [Rec. Doc. 1, p.6; Rec. Doc. 1-3, para. 5-6]. If he was not arrested and detained on a warrant from the Attorney General, he does not qualify for a bond hearing under 1226(a). *See, Lopez*, pp. 11-12 (Exh. A).

**2. Petitioner's mandatory detention does not violate due process.**

The Supreme Court has held that detention during removal proceedings, even without access to a bond hearing, is constitutional. In *Demore*, the Supreme Court upheld the constitutionality of 8 U.S.C. § 1226(c), which mandates detention during removal proceedings without access to bond hearings. 538 U.S. at 522. The Court “recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.” *Id.* at 523. The Court reaffirmed its “longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings.” *Id.* at 526; *see also Adiemereonwu v. Gonzales*, 161 Fed. Appx. 422 (5<sup>th</sup> Cir. 2006). The Court explained that “when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal.” *Demore*, at 528. The Court recognized as to due process concerns that it “has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.” *Id.* at 522 (quotations omitted).

Here, Petitioner is detained for the limited purpose of removal proceedings. Petitioner's detention is not punitive or for other reasons than to address his removability from the United States. His detention under § 1225(b)(2) is also not indefinite, as it will end upon the conclusion of his removal proceedings. Those



proceedings are moving expeditiously. A brief period of detention for the purpose of removal proceedings or to effectuate removal does not violate the constitution. The *Jennings* Court, while examining a constitutional challenge, refused to put a six-month deadline on a 1225(b)(2) detention. *Jennings*, 583 U.S. at 302.

**B. Irreparable harm has not been shown.**

Petitioner has not shown that he will suffer irreparable harm in the absence of a preliminary injunction. *Winter v. National Resources Defense Counsel, Inc.*, 555 U.S. 7, 20 (2008). Detention alone does not constitute irreparable harm. Because the type of harm Petitioner alleges “is essentially inherent in detention, the Court cannot weigh this strongly in favor of” Petitioner. *Lopez Reyes v. Bonnar*, 2018 WL 7474861 at \*10 (N.D. Cal. Dec. 24, 2018). Indeed, “if detention during removal proceedings constitutes irreparable harm in and of itself, nearly all habeas petitioners would be entitled to injunctive relief.” *Abi v. Barr*, 2019 WL 2463036, at \*2 (D. Minn. 2019). Nor has Petitioner alleged any harm of a constitutional dimension. *See supra*. Given the absence of any irreparable harm that would befall Petitioner if he is not afforded a bond hearing, there is no basis to enter preliminary injunctive relief.

**C. The balance of equities favors the United States.**

The balance of equities and public interest weigh against granting a preliminary injunction. The final two factors required for preliminary injunctive relief—balancing of the harm to the opposing party and the public interest—merge when the Government is the opposing party. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). The Supreme Court has specifically acknowledged that “[f]ew interests can be

more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1220-21 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.").

Moreover, the prompt execution of removal orders is a legitimate governmental interest which detention may facilitate. *Nken*, 556 U.S. at 436 ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established and permits and prolongs a continuing violation of United States law.") (internal quotation omitted). This strong governmental interest in ensuring appearance for removal proceedings and prompt removal through mandatory detention pending removal proceedings outweighs the Petitioner's alleged hardships. Even assuming Petitioner were likely to succeed on the merits of his claims (he is not), the balance of the equities weighs heavily in favor of the government, and the Court should decline to enter any injunction.

### **III. This Court lacks jurisdiction over this matter.**

Petitioner's motion is a collateral attack on his removal proceedings dressed up as a request for a bond hearing. Congress, however, has foreclosed exactly this type of challenge. Multiple provisions of 8 U.S.C. § 1252 strip this Court of jurisdiction over Petitioner's request, and Petitioner cannot sidestep that the substance of his claims are barred by § 1252 by restyling them as something else.

“Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Here, Congress has spoken with unmistakable clarity. Section 1252(b)(9) mandates that “[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order.” It further specifies that “no court shall have jurisdiction, by habeas corpus . . . or by any other provision of law,” to review such questions except in that context. 8 U.S.C. § 1252(b)(9). Section 1252(g) is equally categorical, barring jurisdiction over “any cause or claim” arising from the government’s decision to “commence proceedings,” “adjudicate cases,” or “execute removal orders.” 8 U.S.C. § 1252(g).

Petitioner’s claims fall squarely within these prohibitions. He is not challenging the conditions of confinement or the length of detention—issues courts have occasionally recognized as falling outside § 1252(b)(9)’s sweep. *See Jennings*, 583 U.S. at 294 (plurality opinion).<sup>7</sup> Instead, he asks this Court to second-guess whether and how an immigration judge, subject to precedential decisions of the Board of Immigration Appeals, grants bond in the midst of ongoing removal proceedings.

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<sup>7</sup> As Justice Thomas explained in his concurrence in *Jennings*, “Section 1252(b)(9) is a ‘general jurisdictional limitation’ that applies to ‘all claims arising from deportation proceedings’ and the ‘many decisions or actions that may be part of the deportation process. ‘Detaining an alien falls within this definition—indeed, this Court has described detention during removal proceedings as an ‘aspect of the deportation process.’ . . . The phrase ‘any action taken . . . to remove an alien from the United States’ must at least cover congressionally authorized portions of the deportation process that necessarily serve the purpose of ensuring an alien’s removal.” *Jennings*, 583 U.S. at 317-18 (Thomas, J., concurring in part and concurring in the judgment)(citations omitted).

That is precisely the sort of interference Congress barred—multiple times over—in section 1252. As *Jennings* explained, habeas cannot be used to “challeng[e] the decision to detain them in the first place.” *Id.* The Supreme Court has been explicit: detention pending removal is a “specification of the decision to ‘commence proceedings’ which . . . § 1252(g) covers.” *Reno v. Am.-Arab Anti-Discrimination Comm.* (“AADC”), 525 U.S. 471, 485 n.9 (1999).

Section 1252(b)(9) is extraordinarily (and intentionally) broad, channeling “all questions of law and fact” that “arise from” removal actions into the petition-for-review process. *Id.* at 9. Courts may retain jurisdiction to hear claims entirely independent of removal, but not those—like Petitioner’s—that strike at the heart of the government’s authority to detain during removal proceedings. His challenge is inextricably bound up with the adjudication of his case before the immigration court and therefore falls directly within the statute’s jurisdiction-stripping provisions. In short, Petitioner is inviting this Court to disregard Congress’s carefully constructed jurisdictional framework and insert itself into ongoing removal proceedings. Congress could not have been clearer: questions about whether, when and under what circumstances an alien is detained during removal proceedings must be addressed through the statutory review process, not through habeas collateral attacks. Because §§ 1252(b)(9) and 1252(g) categorically bar this Court from intervening, denial of the motion for preliminary injunction and dismissal for lack of jurisdiction is mandatory.<sup>8</sup>

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<sup>8</sup> Moreover, even assuming Petitioner were correct that the proper detention authority is §1226(a), 8 U.S.C. § 1252(a)(2)(B)(ii) precludes review of any discretionary decision to continue

#### IV. Conclusion

Petitioner's Motion for TRO and preliminary injunction should be denied and Petitioner's detention should remain undisturbed for the duration of his removal proceeding. As an inadmissible alien seeking admission, he is subject to mandatory detention for the duration of his removal proceeding pursuant to 8 U.S.C. § 1225(b)(2).

Respectfully submitted,

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detaining him rather than release him. Section 1252(a)(2)(B)(ii) precludes review of decisions made discretionary by statute, like § 1226(a), which states that, except when detention is mandatory based on the alien's criminal history, "pending such decision, the Attorney General . . . *may* continue to detain the arrested alien." 8 U.S.C. § 1226(a)(1)(emphasis added); *see, e.g., Bouarfa v. Mayorkas*, 604 U.S. 6, 13–14 (2024) ("As '[t]his Court has repeatedly observed,' the word "*may*" *clearly* connotes discretion." (emphasis in original)). In any event, Petitioner is properly detained under § 1225(b)(2).