UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LUISA ANNETTE ALVAREZ FELIX
IN REPRESENTATION OF
JOAN ALBERTO ZORRILLA-LORA,
Petitioner-Plaintiff,

v.

REBECCA GONZALEZ, ET AL.,
Respondents-Defendants.

Civil No. 26-cv-1041 (RAM)

RESPONDENTS' SURREPLY IN OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241

Respondents by and through their attorney, submit this sur-reply in opposition to Joan Alberto Zorrilla-Lora's ("Petitioner") Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (the "Petition"). See ECF No 1. The Court should deny the Petition for a Writ of Habeas Corpus because, as further explained in Respondent's Memorandum in Opposition, Petitioner is properly detained under § 235(b)(5) of the Immigration and Nationality Act ("INA"). 28 U.S.C. § 1225(b)(2); DE #21.

A. Petitioner is Properly Detained Pursuant to Section 1225(b)(2).

Furthermore, Petitioner's admissions in his Response to Respondent's Memorandum in Opposition support this determination. Petitioner admits that the Government has the authority to detain *certain* noncitizens according to the [INA]," that "Section 1225 [of the INA] governs detention of immigrants who have not been 'admitted' under the INA," that a "[noncitizen] present in the United States wo has not been admitted" is an applicant for admission under the INA, and that Section 1225 provides for mandatory detention of applicants for admission who are seeking

admission. DE #25 at 2. These admissions establish, beyond a doubt, that (a) Petitioner is an "applicant for admission" as provided by § 235(a) of the INA because he has not been lawfully admitted into the United States (DE #25 at 2); (b) he is seeking admission into the United States through the filing by his spouse of an I-130 Petition for Alien Relative, and his own filing of a I-601A Petition for Provisional Unlawful Presence Waiver (DE #25 at 5); and he is not clearly beyond a doubt entitled to be admitted because the filing of the I-601A Form is an admission that he is currently the subject of a condition of inadmissibility due to his illegal entry into the United States. Under these circumstances, Petitioner shall remain detained during the pendency of his removal proceedings because Section 235(b)(2)(A) applies if the following criteria are met: the noncitizen must be (i) an "applicant for admission," (ii) "seeking admission," and (iii) "not clearly and beyond a doubt entitled to be admitted." Those criteria are met in Petitioner's case.

B. Section 1225(b)(2) applies to noncitizens who have not been admitted.

Contrary to Petitioner's contentions, Section 1225 is *not* limited to noncitizens seeking admission at a border or port of entry—Section 1225(b)(1) applies to arriving aliens at a border or port of entry while Section 1225(b)(2) applies to *other aliens* who are applicants for admission. See Sections V(C)(1) and (2) of Respondent's Opposition, DE # 21 at 18-21. As we explained in the Opposition, Petitioner fails to acknowledge that Section 1225(b)(2) is a valid provision in the INA that applies to his circumstances or to provide a justification to eviscerate this provision of the INA as inapplicable to his circumstances. The mere fact that both Section 1225(b)(2) and 1226 apply to noncitizens without legal status found within the United States, does not create a justification for the Court to choose not to apply one of those statutes to the situation. As we explained in the Respondent's Opposition, "[r]edundancies are common in statutory drafting" and are "not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Barton*

v. Barr, 590 U.S. 222, 223 (2020). Petitioner fails to identify what principle of statutory construction is being breached by enforcing the plain language of Section 1225(b)(2) to his situation—he does not identify any case law or precedent in support of his argument. DE #25 at 6. "It is black-letter law 'that issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.' … A party may not merely 'mention a possible argument in the most skeletal way, leaving the Court to do counsel's work, create the ossature for the argument, and put flesh on its bones.' " *Grajales v. Puerto Rico Ports Auth.*, 922 F. Supp. 2d 240, 243 (D.P.R. 2013) (citing *U.S. v. Zannino*, 895 F.2d 1, 17 (1st Cir.1990)).

As we explained in Respondent's Opposition, Section 1225(b)(2) does not make Section 1226 redundant. DE #21 at 24-28. Section 1225(b)(2) applies to noncitizens found in the United States who have not been admitted while Section 1226 applies to noncitizens found in the United States after having been admitted, like, for example, noncitizens who have overstayed their visas. Under that statutory framework, it makes sense for Congress to treat these two groups of noncitizens differently. Mandatory detention is dictated for those who absconded and entered illegally while allowing for discretionary detention for those noncitizens who were legally admitted into the United States. There is no reason for not applying the strictures of Section 1225(b)(2) to Petitioner's removal proceedings.

C. Rebecca Gonzalez is not Petitioner's custodian.

As explained in Respondent's Opposition, once a noncitizen is detained, his custody is transferred to ICE Enforcement and Removal Operations ("ERO"), one of the U.S. Immigration and Custom Enforcement's Directorates. ERO "manages the enforcement initiatives and components through which ERO identifies and arrests aliens subject to removal from the U.S." https://www.ice.gov/about-ice/ero. Hence, the only proper respondent in these cases is the

ICE-ERO Field Office Director (FOD) for the Miami Field Office, which oversees operations in Puerto Rico as one of its areas of responsibility.

Homeland Security Investigations ("HSI") is a sister Directorate that does not have supervisory oversight into the actions of ERO, its employees or components. *See* https://www.ice.gov/leadership/organizational-structure. Therefore, Rebecca Gonzalez has never been the proper respondent because she does not have oversight functions over ERO, the agency that does oversee the proper custodian. Furthermore, Rebecca Gonzalez has not been the Special Agent in Charge of HSI San Juan since November 2025, prior to Petitioner's detention. The Court should dismiss all claims against respondents who are not the proper custodian. *See* DE #21 at 39.

D. No discovery should be allowed as a remedy in this case.

Petitioner includes a demand for discovery of his immigration administrative file, including alleged interagency agreements, and a demand for deposition of supervisors of detaining officers as new remedial requests in his Prayer for Relief. DE #25 at 19. But habeas corpus petitioners are not automatically entitled to discovery. *Bracy v. Gramley*, 520 U.S. 899, 904 (1997); *see also Huenefeld v. Maloney*, 62 F. Supp. 2d 211, 235 (D. Mass. 1999). The Court may order such discovery *only* where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is entitled to relief. *Bracy*, 520 U.S. at 908-09 (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)).

Rule 6(a) of the Rules Governing Section 2255 Proceedings for the United States District Courts, states that "[a] judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Criminal Procedure or Civil Procedure, or in accordance with the practices and principles of law." But generalized statements regarding the possibility of the existence of discoverable material will not be sufficient to establish the requisite "good cause." The information

sought must be material, and it is material "when there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different. *Velazquez-Rivera v. United States*, 54 F. Supp. 3d 168, 170 (D.P.R. 2014) (alteration in original) (internal citations omitted).

In this case, Petitioner has not made any allegations that make the requested discovery relevant to the proceedings. There are no current disputes as to the content of Petitioner's immigration administrative file that require adjudication by the Court to address his request for habeas corpus relief. As he fully admits, "Petitioner challenges only the decision to detain him during the pendency of [his removal] proceedings." DE #25 at 16. Likewise, no allegations have been made that would make discovery regarding any alleged interagency agreement between ICE and the Municipal Police of Carolina pertinent to the adjudication of the legality of Petitioner's detention without the opportunity for bond. Likewise, no allegations have been made that would require the deposition of supervisors of the agents who detained Petitioner to the adjudication of the legality of his detention pursuant to Section 1225(b)(2). The mere filing of a habeas corpus petition is not an excuse to engage in a fishing expedition. This Great Writ is an extraordinary remedy aimed at a particular objective, avoiding unlawful detention. It is not a tool to be used as subterfuge to engage in furtive investigations. If Petitioner and his attorneys are desirous of procuring public documents or investigating agency action unrelated to the legal grounds for his detention, they must use other ordinary and legal means to procure the information. The Court should deny such relief as impertinent.

WHEREFORE, the undersigned respectfully requests that this Response be noted, that the Petition be denied, and that the case be closed for statistical and administrative purposes.

I HEREBY CERTIFY that on this date, I electronically filed the forgoing with the Clerk of the Court using CM/ECF System, which will send notification of such filing to all parties.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on January 30, 2026.

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