

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOSE ANTONIO AVALOS-DIAZ,

Petitioner,

v.

BRIAN ENGLISH, et al.,

Respondents.

CAUSE NO. 3:26-CV-435-CCB-SJF

ORDER TO SHOW CAUSE

Immigration detainee Jose Antonio Avalos-Diaz, by counsel, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241, alleging he is unlawfully confined in violation of the laws or Constitution of the United States. (ECF 1.) He alleges he is a citizen of Mexico who entered the United States without inspection in 2001. He claims he has been living in Illinois for many years, working, paying taxes, and raising his three United States citizen children. He claims he was taken into custody by agents of United States Immigration and Customs Enforcement (ICE) in early March 2026 while walking his son to school, and is currently being detained at Miami Correctional Facility pending the outcome of removal proceedings.

Mr. Avalos-Diaz argues that the government will not release him on bond because it has wrongfully concluded that his detention is authorized by 8 U.S.C. § 1225(b)(2). He argues that 8 U.S.C. § 1225(b)(2) applies to people arriving at ports of entry, whereas he was arrested within the interior of the country years after his arrival.

He seeks an order requiring that he be released from custody or provided with a prompt custody redetermination hearing.

The court has subject matter jurisdiction under 28 U.S.C. § 2241 to review the legality of the petitioner's detention, but that jurisdiction does not extend to reviewing orders of removal issued by an immigration court or discretionary decisions of the Attorney General. *See Demore v. Kim*, 538 U.S. 510, 517 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Here, Mr. Avalos-Diaz alleges that his detention without an opportunity for bond violates applicable statutes and the Fifth Amendment's Due Process Clause. The court has jurisdiction to consider these issues.

Some issues regarding detention under the Immigration and Nationality Act have already been thoroughly examined in this court and in many other courts across the country. Specifically, this court has joined the overwhelming majority of courts in concluding that 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who were apprehended in the interior of the United States years after they entered. *See Mejia Diaz v. Noem*, No. 3:25cv960, 2025 WL 3640419 (N.D. Ind. Dec. 16, 2025) (Brisco, J.); *see also De Jesús Aguilar v. English*, No. 3:25cv898, 2025 WL 3280219 (N.D. Ind. Nov. 25, 2025) (Leichty, J.), *appeal docketed*, No. 26-1145 (7th Cir. Jan. 26, 2026); *Singh v. English*, No. 3:25cv962, 2025 WL 3713715 (N.D. Ind. Dec. 23, 2025) (Leichty, J.). Notably, the Seventh Circuit concluded in deciding an application for a stay pending appeal that the government was unlikely to succeed on its argument that the mandatory detention provision in § 1225(b)(2) applies to noncitizens arrested by ICE in the interior of the

United States. *Castanon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061 (7th Cir. 2025).

To the extent the respondents would raise the same arguments about subject matter jurisdiction and the applicability of § 1225(b)(2) already discussed in *Mejia Diaz*, *De Jesús Aguilar*, and *Singh*, there is no need to rehash these same arguments. The court will deem such arguments preserved for review without need to repeat them in briefing, and will likewise deem them addressed by the court's previous orders, unless there is cause to address something new. The parties need only brief what is different or new, not what has been decided, and those issues particular to this petitioner.

For these reasons, the court:

(1) **DIRECTS** the clerk to serve a copy of this order and the petition (ECF 1) by certified mail, return receipt requested, to the Civil-Process Clerk for the United States Attorney for the Northern District of Indiana; the Attorney General of the United States; the Acting Director of Immigration and Customs Enforcement at the Office of the Principal Legal Advisor; the Secretary of the Department of Homeland Security at the Office of General Counsel; and the Warden of Miami Correctional Facility at the Indiana Department of Correction;

(2) **DIRECTS** the clerk to email a copy of this order and the petition (ECF 1) to the Indiana Department of Correction; the Warden of Miami Correctional Facility at Miami Correctional Facility; and the United States Attorney for the Northern District of Indiana;

(3) **ORDERS** the Warden, the IDOC, and the United States Attorney to acknowledge receipt of the petition to the clerk and **DIRECTS** the clerk to make a notation on the docket upon receiving confirmation of receipt of those deliveries; and

(4) **ORDERS** the respondents to file an answer to the petition by **April 9, 2026**, addressing petitioner's arguments that he is being illegally detained and providing relevant immigration records, including any administrative warrant issued for his arrest pursuant to 8 U.S.C. § 1226(a); and

(5) **GRANTS** the petitioner until **April 16, 2026**, to file a reply in support of his petition.

SO ORDERED on April 1, 2026.

/s/ Cristal C. Brisco
CRISTAL C. BRISCO, JUDGE
UNITED STATES DISTRICT COURT