UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Yefry VALDEZ, Petitioner, - against - William JOYCE, *et al.*, Respondents.	**No. 25 Civ. 4627 (GBD)**

RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION TO THE PETITION FOR A WRIT OF HABEAS CORPUS

JAY CLAYTON
United States Attorney for the
Southern District of New York
Attorney for Respondents
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel: (212) 637-2743

BRANDON M. WATERMAN
Assistant United States Attorney
– Of Counsel –

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The government, by its attorney, Jay Clayton, United States Attorney for the Southern District of New York, respectfully submits this memorandum of law in opposition to the petition for a writ of habeas corpus, filed on June 2, 2025, by petitioner Yefry Valdez.

PRELIMINARY STATEMENT

Valdez is an applicant for admission from the Dominican Republic who was apprehended by officers of the U.S. Department of Homeland Security ("DHS") shortly after he unlawfully crossed the United States/Mexico border in April 2024. Because he is an alien who entered the United States without inspection or admission, was apprehended within 100 miles of the border and within 14 days of an illegal entry, and deemed inadmissible at that time, DHS had the discretion either to place Valdez into § 1229a removal proceedings or to issue an expedited removal order. Due to an influx of aliens at the border and resource constraints, DHS opted at that time to place Valdez in § 1229a removal proceedings and release him in the interim. In June 2025, U.S. Immigration and Customs Enforcement ("ICE") exercised its prosecutorial discretion and moved to dismiss Valdez's removal proceedings due to changed circumstances, and after making that motion, opted to detain him. The immigration judge has not yet granted ICE's motion to dismiss, so removal proceedings remain pending. Should the immigration judge grant ICE's motion, ICE will place Valdez into expedited removal proceedings, through which Valdez will receive the process afforded by statute, which includes the potential to apply for asylum.

Valdez filed this habeas petition to principally challenge ICE's efforts to dismiss his removal proceedings and invoke the expedited removal procedures against him. He asserts that subjecting him to the expedited removal process violates the Immigration and Nationality Act as well as due process. He also argues that his detention is unlawful. But all of Valdez's claims fail. He cannot challenge ICE's decision to dismiss his removal proceedings and to invoke the

expedited removal procedures against him, and in any event, ICE's actions violate neither the statute nor due process. Nor has Valdez demonstrated that his detention is unlawful.

FACTUAL AND PROCEDURAL BACKGROUND

A. Valdez's Initial Encounter and Immigration Proceedings

On April 3, 2024, Valdez, a native and citizen of the Dominican Republic, unlawfully crossed the U.S.-Mexican border near the Lukeville Port of Entry near Ajo, Arizona, at which point he was encountered and taken into custody by U.S. Border Patrol. *See* Declaration of Deportation Officer Chabert Eugene ("Eugene Decl.") ¶¶ 3-4. He did not possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document. *Id.* ¶ 4. U.S. Customs and Border Protection ("CBP") issued and served Valdez with a Notice to Appear ("NTA"), the charging document used to commence removal proceedings, charging him as an alien present in the United States without being admitted or paroled who is inadmissible under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* ¶ 5. The NTA advised that Valdez was to appear before an immigration judge in Buffalo, New York, for a hearing scheduled to occur on April 9, 2025. *Id.* After completing processing, CBP released Valdez on his own recognizance due to a lack of bedspace at the border. *Id.* ¶ 6.

On October 28, 2024, Valdez filed with the Buffalo immigration court an I-589 application for asylum, withholding, and protection under the Convention Against Torture, which was prepared with the assistance of the NYC Asylum Center. *Id.* ¶ 7. On April 9, 2025, Valdez appeared without counsel for his initial master calendar hearing before an immigration judge in Buffalo, New York. *Id.* ¶ 8. The immigration judge provided Valdez with the initial advisals and granted his request for a change of venue from Buffalo, New York to the immigration court at 290

Broadway, New York, New York. *Id.* Valdez's next hearing was scheduled for June 2, 2025. *Id.* ¶ 9.

On June 2, 2025, Valdez appeared without counsel for his second master calendar hearing (his first at the 290 Broadway immigration court). *Id.* ¶ 10. At that hearing, ICE made an oral motion to dismiss the removal proceedings pursuant to 8 C.F.R. § 239.2(c) based on the grounds set forth in 8 C.F.R. § 239.2(a)(7) (change in circumstances). *Id.* The immigration judge reset the case for a master calendar hearing for July 7, 2025, to allow Valdez an opportunity to respond to ICE's motion. *Id.* While Valdez's master calendar hearing was taking place, ICE's Enforcement and Removal Operations ("ERO") redetermined Valdez's custody status, determined that he was subject to enforcement action and a flight risk, and decided to detain him pending the resolution of his removal proceedings, with the intent to place Valdez in expedited removal proceedings pursuant to 8 U.S.C. § 1225, if the immigration judge grants ICE's motion to dismiss removal proceedings. *Id.* ¶¶ 11, 18. Upon the conclusion of his master calendar hearing, ICE-ERO took Valdez into custody. *Id.* ¶ 11. On June 3, 2025, Valdez, with the assistance of counsel, filed an opposition to ICE's motion to dismiss. *Id.* ¶ 12. On June 6, 2025, ICE filed a Form I-830 with the immigration court to transfer venue to the immigration court that has administrative control over the facility where Valdez is detained. *Id.* ¶ 17.

B. Valdez's Detention

Since June 2, 2025, ICE has detained Valdez. *Id.* ¶ 11. Due to the lack of available bedspace in New York and the surrounding areas (Newark, Philadelphia, Buffalo), ICE secured bedspace for Valdez at the Joe Corley Processing Center in Texas. *Id.* ¶¶ 14-16. On June 5, 2025, ICE transported Valdez to that facility, where he remains as of the date of this filing. *Id.* ¶ 16.

C. Valdez's Habeas Petition

On June 3, 2025, while temporarily detained at 26 Federal Plaza holding facility, Valdez filed the instant habeas petition. ECF No. 1. He filed an amended petition on June 6, 2025. ECF No. 4. He asserts four counts, asserting violations of the INA, its implementing regulations, and due process. *See id.* ¶¶ 29-49.

ARGUMENT

VALDEZ'S HABEAS PETITION SHOULD BE DENIED

A. Valdez's Challenges to His Immigration Proceedings Fail

1. The Court lacks jurisdiction over expedited removal issues

As a threshold matter, Valdez's claims challenging matters relating to removal proceedings and expedited removal are not properly presented in this habeas corpus action, as they are not challenges to detention. "At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release."); *see also* 28 U.S.C. § 2241 (authorizing federal courts to grant a writ of habeas corpus whenever a petitioner is "in custody in violation of the Constitution or laws or treaties of the United States").

Further, Valdez's challenge to ICE's decision to place him in expedited removal proceedings is jurisdictionally barred by 8 U.S.C. § 1252(a)(2)(A). The Second Circuit has explained that, subject to exceptions not relevant here, "§ 1252(a)(2)(A) deprives [the] court[s] of jurisdiction to hear challenges relating to the Attorney General's decision to invoke expedited removal, his choice of whom to remove in this manner, his procedures and policies, and the implementation or operation of a removal order." *Shunaula v. Holder*, 732 F.3d 143, 146 (2d Cir.

2013) (quotations omitted). Valdez's challenges to ICE's decision to invoke expedited removal against him is thus barred.

Separately, 8 U.S.C. § 1252(g) deprives courts of jurisdiction to review "any cause or claim by or on behalf of an alien arising from the decision or action by the Attorney General to [1] commence proceedings, [2] adjudicate cases, or [3] execute removal orders against any alien under this chapter." 8 U.S.C. § 1252(g). Here, Valdez's challenges are barred to the extent he challenges decisions and actions to commence proceedings and to adjudicate cases. The Supreme Court explained in *Reno v. American-Arab Anti-Discrimination Committee* ("*AADC*") that § 1252(g) was "designed to give some measure of protection" to immigration authorities' discretionary decisions regarding the commencement of removal proceedings: Congress provided that if those decisions "are reviewable at all, they at least will not be made the bases for separate rounds of judicial intervention outside the streamlined process that Congress has designed." 525 U.S. 471, 485 (1999); *see also id.* at 485 n.9 ("Section 1252(g) was directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion. It does not tax the imagination to understand why it focuses upon the stages of administration where those attempts have occurred."); *Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (observing that the decision to prosecute or enforce a case, whether civil or criminal, is "generally committed to an agency's absolute discretion" and not amenable to judicial review).

And to the extent that Valdez challenges a policy, statute, or regulation concerning expedited removal, this is not the proper forum. Such challenges must be filed in the U.S. District Court for the District of Columbia. *See* 8 U.S.C. § 1252(e)(3)(A).

1. ICE has not violated the INA or its implementing regulations

In Count One, Valdez asserts that ICE's action of seeking to dismiss his removal proceedings violates the INA because it has "impermissibly created parallel processes that

undermine Section 1229a's clear mandate for a single, coherent removal process." *See* Am. Pet. ¶¶ 30-34. This claim is without merit. To begin, the premise underling Valdez's statutory claim is wrong. He is not "force[d] . . . to defend himself against removal simultaneously in two parallel proceedings." *Id.* ¶ 34. At present, Valdez remains *only* in § 1229a removal proceedings. ICE's motion to dismiss those removal proceedings is currently pending before an immigration judge, who will independently decide how to adjudicate ICE's motion. Until the immigration judge rules on ICE's motion, and pending any appeal to the BIA, Valdez will remain only in § 1229a removal proceedings. Indeed, ICE has affirmed that it would place Valdez in expedited removal proceedings only if the immigration judge dismisses § 1229a removal proceedings. *See* Eugene Decl. ¶ 18. Simply put, ICE has not subjected Valdez to "two parallel proceedings" for removal, and so the purported basis underlying Valdez's claim is lacking.

Moreover, Valdez has pointed to nothing in any statute that prevents ICE from moving to dismiss removal proceedings. Nor has Valdez pointed to anything in the statute that prevents ICE from applying the expedited removal process to him, particularly where Valdez was apprehended near the border on the day that he unlawfully entered and was deemed inadmissible at that time. Nor could he. Simply put, ICE's actions have not violated any statute.

Lastly, in Count One, Valdez also asserts that ICE's action of seeking to dismiss his removal proceedings violates ICE's regulation because there has allegedly been no change of circumstance in Valdez's case. *See* Am. Pet. ¶ 35. He argues that ICE "cannot lawfully dismiss or move to dismiss [his] proceedings absent a change in the circumstances of *his case*," citing 8 C.F.R. § 239.2(a)(7). This argument is unavailing. Nothing in the regulation precludes ICE from filing a motion to dismiss when it believes that circumstances have changed and that continuation

of the proceedings is not in the best interest of the government.[1] In any event, this is a matter exclusively for the immigration court. If the immigration judge determines that ICE's motion to dismiss is not in accordance with 8 C.F.R. 239.2(c), such motion "shall be deemed a motion to terminate" and adjudicated pursuant to the appropriate standards, which include consideration of a party's opposition to the motion. 8 C.F.R. § 1239.2(b). Further, Valdez may also file an administrative appeal to the BIA if he believes the motion is improperly adjudicated. Thus, because the immigration judge will evaluate ICE's motion and adjudicate it according to the applicable standard, any alleged violation of the regulation is harmless, and Valdez has not shown any prejudice required to make out relief under *Accardi*. *See, e.g.*, *United States v. Schiller*, 81 F.4th 64, 71 (2d Cir. 2023) ("Although an agency's failure to follow its own regulations or procedures can require its action to be invalidated, *see United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267 (1954), our precedent requires a showing of prejudice to the rights protected where the subject regulation 'does not affect fundamental rights derived from the Constitution or a federal statute,' *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993).").

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[1] Under this regulation, an ICE officer may cancel an NTA unilaterally prior to commencing proceedings, but once the NTA is filed with the immigration court and jurisdiction is vested with the immigration judge (as is the case here), the regulations provide that ICE counsel may only move the immigration court for dismissal of the proceedings. *See* 8 C.F.R. §§ 239.2(a), (c); *accord* 8 C.F.R. § 1239.2. Notably, dismissal is not automatic; rather, an immigration judge evaluates the motion and any opposition and makes an independent decision. *See, e.g.*, *Matter of G-N-C-*, 22 I. & N. Dec 281, 284 (BIA 1998) (explaining that the language of 8 C.F.R. § 239.2(a) (1998) and § 239.2(c) (1998) "marks a clear boundary between the time prior to commencement of proceedings, where [DHS] has decisive power to cancel proceedings, and the time following commencement, where [DHS] merely has the privilege to move for dismissal of proceedings" and that, based on the distinction, "the regulation presumably contemplates not just the automatic grant of a motion . . . , but an informed adjudication by the Immigration Judge . . . based on an evaluation of the factors underlying [DHS's] motion").

2. Valdez has suffered no due process violation

In Count Three, Valdez asserts that ICE's efforts to dismiss his § 1229a removal proceedings in favor of the expedited removal process violates due process. *See* Am. Pet. ¶¶ 43-45. Not so. As explained below, applicants for admission at the threshold of entry into the United States like Valdez have limited due process rights and he can point to nothing to support a violation under the facts of this case; his claim is also premature and he can show no cognizable prejudice on the current record.

The Supreme Court has long recognized that Congress exercises "plenary power to make rules for the admission of foreign nationals and to exclude those who possess those characteristics which Congress has forbidden." *Kleindienst v. Mandel*, 408 U.S. 753, 766 (1972). Pursuant to that longstanding doctrine, "an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The broad scope of the political branches' authority over immigration is "at its zenith at the international border." *United States v. Flores-Montano*, 541 U.S. 149, 152–53 (2004). Accordingly, "certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographical borders." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

The Supreme Court has explained that applicants for admission lack any constitutional due process rights with respect to admission aside from the rights provided by statute: "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned," *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953), and "it is not within the province of any court, unless expressly authorized by law, to review [that] determination," *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950). The Supreme Court reaffirmed "[its] century-old rule regarding the due process rights of an alien seeking initial entry" in

Thuraissigiam, explaining that an individual who illegally crosses the border—like Valdez—is an applicant for admission and "has only those rights regarding admission that Congress has provided by statute." *DHS v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020).

As explained by the Supreme Court, "[w]hen an alien arrives at a port of entry—for example, an international airport—the alien is on U.S. soil, but the alien is not considered to have entered the country." *Thuraissigiam*, 591 U.S. at 139. Stated further, "aliens who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border.'" *Id.* (quoting *Mezei*, 345 U.S. at 215). The Supreme Court held that this same "threshold" rule applies to individuals, like Valdez, who are apprehended after trying "to enter the country illegally" because by statute, such individuals are also defined as applicants for admission. *Id.* at 139-40. Treating such an individual in a more favorable manner than an individual arriving at a port of entry would "create a perverse incentive to enter at an unlawful rather than a lawful location" and therefore the Supreme Court rejected the argument that an individual who "succeeded in making it 25 yards into U.S. territory before he was caught" should be entitled to additional constitutional protections. *Id.* at 140.

Instead, applying the "century-old rule regarding the due process rights of an alien seeking initial entry[,]" the Court explained that aliens arrested after crossing the border illegally, such as Petitioner, have "only those rights regarding admission that Congress has provided by statute." *Id.* at 140. The Court was clear: "the Due Process Clause provides nothing more" than the procedural protections set forth in 8 U.S.C. § 1225 that allow an individual to seek protection from removal if he fears return to his home country and also seek parole from the agency. *Id.*

The Supreme Court's decision in *Thuraissigiam* is instructive. In relevant part, *Thuraissigiam* concerned a due process challenge raised by an alien apprehended 25 yards from

the border, which he crossed illegally. 591 U.S. at 139. DHS detained and processed him for expedited removal because he lacked valid entry documents. *Id.* at 114. An asylum officer then determined that Mr. Thuraissigiam lacked a credible fear of persecution. *Id.* Mr. Thuraissigiam petitioned for a writ of habeas corpus, asserting a fear of persecution and requesting another opportunity to apply for asylum. *Id.*

In its decision, the Supreme Court delineated the boundaries of due process claims that can be made by applicants for admission. Specifically, the Court held that for such aliens stopped at the border, "the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law." *Id.* at 131 (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892)); *see also Guerrier v. Garland*, 18 F.4th 304, 313 (9th Cir. 2021) ("In concluding that *Thuraissigiam*'s due process rights were not violated, the Supreme Court emphasized that the due process rights of noncitizens who have not 'effected an entry' into the country are coextensive with the statutory rights Congress provides.").

In short, because Valdez is an inadmissible applicant for admission seeking initial entry into this country, he therefore "requests a privilege and has no constitutional rights regarding his application[.]"[2] *See Landon v. Plasencia*, 459 U.S. 21, 32 (1982); *U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950) ("At the outset we wish to point out that an alien who seeks admission to this country may not do so under any claim of right."). Instead, Valdez has "only those rights regarding admission that Congress has provided by statute." *See Thuraissigiam*, 591 U.S. at 140. That is, Valdez is entitled only to the protections set forth by statute and "the Due

[2] It is well-settled that "an alien who tries to enter the country illegally is treated as an 'applicant for admission,' and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry.'" *Thuraissigiam*, 591 U.S. at 140. Valdez indisputably falls within this category and is an applicant for admission treated at the threshold of entry.

Process Clause provides nothing more." *Thuraissigiam*, 591 U.S. at 140; *cf. Guzman v. Tippy*, 130 F.3d 64, 66 (2d Cir. 1997) (the rights of excluded aliens "are determined by the procedures established by Congress and not by the due process protections of the Fifth Amendment").

The statutory framework enacted by Congress permits DHS, in its sole discretion, to place Valdez in § 1229a removal proceedings so that he may pursue an application for relief, or to instead invoke the expedited removal process, which also provides a potential opportunity to pursue asylum in proceedings before an immigration judge. As an applicant for admission, Valdez has no constitutional or statutory right to pick which process is applied to him. So long as he is afforded the procedures provided by statute, he is not deprived of due process. Here, Valdez can identify no statutory violation, and, thus, no due process violation. At the discretion of DHS, Valdez was placed in § 1229a removal proceedings—which remain pending as of today's date—and while ICE has expressed its intent to dismiss those proceedings and to instead invoke the expedited removal process, even then Valdez would not be left without process. Valdez would then receive the process provided by § 1225(b), which is all that he would be entitled to in that scenario. But his due process claim is premature because he has not yet been subjected to that process and thus cannot point to any process he has not received that he was due.

And even if Valdez could invoke additional due process protections greater than those discussed above—of which, for the reasons discussed above, there are none—his due process claim would still fail. In the context of challenges to removal proceedings—which this plainly is—the Second Circuit has explained that, "[t]o establish a violation of due process, an alien must show that she was denied a full and fair opportunity to present her claims or that the IJ or BIA otherwise deprived her of fundamental fairness." *Burger v. Gonzales*, 498 F.3d 131, 134 (2d Cir. 2007) (quotation marks omitted). Importantly, "[p]arties claiming denial of due process in

immigration cases must, in order to prevail, allege some cognizable prejudice fairly attributable to the challenged process." *Garcia-Villeda v. Mukasey*, 531 F.3d 141, 149 (2d Cir. 2008) (quotation marks omitted). Valdez cannot meet these standards. In short, Valdez remains in § 1229a removal proceedings while an immigration judge considers ICE's motion to dismiss the proceedings, and even if dismissed, he will be afforded ample process through the expedited removal statute, which includes the potential for him to pursue an asylum application in removal proceedings before an immigration judge. *Cf. Garcia-Villeda v. Mukasey*, 531 F.3d 141, 149 (2d Cir. 2008) (explaining that "despite the lack of a formal hearing, the fast-track reinstatement process . . . is not devoid of procedural safeguards"). He has not shown the prejudice required to state a due process claim, let alone identified any cognizable prejudice that he has suffered as a result of the complained-of actions. Simply put, Valdez cannot identify any deprivation of due process at this time.

Lastly, Valdez argues that, to the extent ICE seeks to subject him, retroactively, to the January 2025 expansion of expedited removal, it violates due process. Am. Pet. ¶¶ 44-45. But the expansion of expedited removal is not relevant to this case and is a red herring. Valdez unlawfully entered the United States in April 2024 and was apprehended by Border Patrol the same day near the border, at which time an inadmissibility determination was made, and consequently he unquestionably falls within the parameters of expedited removal that existed at the time that he unlawfully entered (*i.e.*, aliens apprehended within 100 miles of the U.S. border within 14 days of entering the country, and who have not been admitted or paroled). Thus, his argument fails for this reason alone.

B. Valdez's Challenges to His Detention Fails

In Count Two, Valdez argues that his detention violates due process, asserting that he was not accorded any pre-deprivation process, there was no change in his case compelling a change in his custody status, his detention is not rationally related to any immigration purpose or statutorily

authorized, that it is not the least restrictive mechanism for accomplishing any legitimate government purpose, and that he is neither a flight risk or danger. *See* Am. Pet. ¶¶ 38-41. Valdez's challenge fails.

For more than a century, the immigration laws have authorized immigration officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to detain aliens for removal proceedings. *See Demore v. Kim*, 538 U.S. 510, 523-26 (2003); *Abel v. United States*, 362 U.S. 217, 232-37 (1960) (discussing longstanding administrative arrest procedures in deportation cases). In the INA, 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. "Detention during removal proceedings is a constitutionally valid aspect of the deportation process." *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)); *see Demore*, 538 U.S. at 523 n.7 ("prior to 1907 there was no provision permitting bail for any aliens during the pendency of their deportation proceedings"); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of [the] deportation procedure."). Indeed, removal proceedings "'would be in vain if those accused could not be held in custody pending the inquiry into their true character.'" *Demore*, 538 U.S. at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); *cf. Reno v. Flores* 507 U.S. 292, 306 (1993) ("Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General.").

Moreover, Valdez's contention that his detention violates due process because it is not the least restrictive mechanism for accomplishing legitimate government interests, has been rejected by the Supreme Court. *See Demore v. Kim*, 538 U.S. 510, 528 (2003) ("[W]hen the Government

deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal."). Also without support is his claim that ICE failed to make an individualized assessment to justify his detention. *See* Eugene Decl. ¶ 11 (noting that ICE "redetermined Valdez's custody status, [and] determined that he was subject to enforcement action and a flight risk"). Lastly, Valdez's detention challenge is premature—he has been detained for roughly one week, and there is no indication that he has sought a custody redetermination with the immigration court. While it is true that "[t]here is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention [in federal court]," *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014), exhaustion in this context should be required as a prudential matter, *accord Paz Nativi v. Shanahan*, No. 16 Civ. 8496 (JPO), 2017 WL 281751, at *1 (S.D.N.Y. Jan. 23, 2017) ("before immigration detention may be challenged in federal court . . . exhaustion is generally required as a prudential matter" (collecting cases)).

CONCLUSION

For the foregoing reasons, the Court should deny Valdez's habeas petition.

Dated: New York, New York
June 10, 2025

Respectfully submitted,

JAY CLAYTON
United States Attorney for the
Southern District of New York
Attorney for Respondents

By: */s/ Brandon M. Waterman*
BRANDON M. WATERMAN
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2743
Fax: (212) 637-2786
brandon.waterman@usdoj.gov

Certificate of Compliance

Pursuant to Local Civil Rule 7.1(c), the above-named counsel hereby certifies that this memorandum complies with the word-count limitation of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, this memorandum contains 4,554 words.