UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Francisco Javier Tiburcio Garcia,

Petitioner,

v.

Pamela Bondi, Attorney General;

Kristi Noem, Secretary, U.S. Department of Homeland Security;

Department of Homeland Security;

Todd M. Lyons, Acting Director of Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Sirce Owen, Acting Director for Executive Office for Immigration Review,

Executive Office for Immigration Review,

Peter Berg, Director, Ft. Snelling Field Office Immigration and Customs Enforcement;

and,

Joel L. Brott, Sheriff of Sherburne County.

Respondents.

0:25-cv-03219-JMB-DTS

PETITIONER'S OBJECTIONS TO REPORT AND RECOMMENDATION

INTRODUCTION

Petitioner responds to the docketing of a Report and Recommendation (R&R) to grant Petitioner's Petition in part and deny it in part.

The Report's substantive conclusions are correct. Petitioner encourages the Court to adopt them without modification except the Court should acknowledge the Board of Immigration Appeals decision in *Matter of Jonathan Javier Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). *Yajure Hurtado* does not forge new ground. It merely coopts the arguments Respondents asserted here. However, it is now Respondents' published position that warrants the Court's rejection for the reasons contained in the Report.

Petitioner does not object to the Court not ordering Petitioner's release. He is currently released through the discretionary process in § 1226(a) so this alternative request is moot.

Petitioner, however, objects to the portion of the Report that recommends that the Court refrain from entering declaratory judgment against Respondents. The report was docketed moments before the Board of Immigration Appeal's released *Yajure Hurtado*. *Yajure Hurtado* necessitates that the Court declare what the law is, at a minimum, within this district and against the parties to this proceeding. Clarity benefits all.

ARGUMENT

I. PETITIONER'S REQUESTS ARE NOT MOOTED FOLLOWING HIS BOND HEARING AS INTERVENING CASE LAW HAS RAISED A TRUE APA CHALLENGE.

The R&R states that Petitioner's requests for declaratory judgment was mooted by the bond hearing. Petitioner disagrees. *Yajure Hurtado* says otherwise. Petitioner requests the Court address counts 1, 2, 4, and 5. Petitioner concedes that the Court need not reach the constitutional arguments because the matter resolves on the statutory construction claims. The Court should grant relief consistent with the relief requested in items 6, 7, and 9 in his Petition.

The Board of Immigration Appeals released *Matter of Jonathan Javier Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) almost simultaneously to the docketing of this Report. *Yajure Hurtado* cemented Respondents' erroneous interpretation of § 1225(b)(2) and established it as the law that governing the Fort Snelling Immigration Court, the face of Respondent Executive Office for Immigration Review within this district. This development eviscerates any uncertainty and establishes that sole remedy the Report recommends – limiting relief to the § 1226 bond proceeding already granted - is simply inconclusive.

The recommendation leaves *Yajure Hurtado* unchallenged as log=cal governing law despite the Report's clear conclusions to the contrary.[1] Furthermore,

[1] *Yajure Hurtado* also extinguished any prudential exhaustion concern.

Respondents lack self-restraint. An absence of a declaration as to what the correct interpretation of the law is, at a minimum, empowers Respondents under its regulatory authority to revoke the bond Petitioner paid and detain him again under the theory of there is in fact a new authority, that is *Yajure Hurtado.* Respondents have already done this to individuals previously released on bond and then brought back into custody under this new mandatory custody position.

A declaratory judgment, at a minimum, ensures that the Court's interpretation of the law continues to control beyond the preliminary injunction. Each time a person returns to custody triggers a new bond proceeding, and not a continuation of the last one. A judgement that neglects to respond to *Yajure Hurtado* by establishing as a matter of law what the correct construction of the Act fails to protect Petitioner's interests beyond this temporal moment.

The Report's also raises a concern about the Court's authority to address any count touching upon the APA. Section 706(2) independently permits the Court to vacate agency action and rules. *Trump v. CASA, Inc.*, 606 U.S. ——, 145 S. Ct. 2540 (2025) did not impinge this authority. The Report seemingly overlooked that *CASA* was about the scope of the Court's injunctive power. This constriction of authority does not apply here.

CASA decries the invocation of universal injunctions. Petitioner, however, maintains that the temperance of universal injunctive relief does not inhibit the

Court's authority under the APA to enter an order that finds a violation of the APA. The court in Child Trends, Inc. v. United States Dep't of Educ., 2025 WL 2379688, at *19 (D. Md. Aug. 15, 2025) astutely articulated how *CASA* is not as far reaching as Respondents will suggest and Report implies. The court in *Child Trends* stated,

> Though Defendants argue that the Supreme Court's recent decision in *Trump v. CASA, Inc.*, 606 U.S. ——, 145 S. Ct. 2540, --- L.Ed.2d —— – (2025) precludes the Court's ability to provide relief that reaches beyond the Parties, the *CASA* decision explicitly did not extend to the APA. **The majority opinion unambiguously stated that nothing in the decision "resolves the distinct question whether the Administrative Procedure Act authorizes federal courts to vacate agency action."** *Id.* at 2554 n.10 (citing 5 U.S.C. § 706(2)).
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> And Justice Kavanaugh's concurrence emphasized that in the wake of *CASA*, **plaintiffs seeking to challenge the legality of a new federal statute or executive action could, where appropriate, continue to bring suits asking courts to "preliminarily 'set aside' a new agency rule."** *Id.* at 2567 (Kavanaugh, J., concurring) (citing *West Virginia v. EPA*, 577 U.S. 1126, 136 S.Ct. 1000, 194 L.Ed.2d 17 (2016) and *Corner Post, Inc. v. Bd. of Governors*, 603 U.S. 799, 826–42, 144 S.Ct. 2440, 219 L.Ed.2d 1139 (2024) (Kavanaugh, J., concurring)); *see also Purl v. Dep't of Health & Hum. Servs.*, No. 2:24-CV-228, —— F. Supp. 3d ——, —— – ——, 2025 WL 1708137, at *27–*28 (N.D. Tex. June 18, 2025) (explaining the differences between vacatur and national injunction, though in advance of the Supreme Court's decision in *CASA*); *Cabrera v. Dep't of Lab.*, No. 25-CV-1909, —— F. Supp. 3d – ——, ——, 2025 WL 2092026, at *8 (D.D.C. July 25, 2025) (again differentiating vacatur from national injunctions, this time post-*CASA*). Further, that non-parties may reap a benefit from a Court's decision, as may be the case here, was expressly contemplated in *CASA*. *See* 606 U.S. at ——, 145 S.Ct. at 2557; *see also Nat'l Fair Hous. All. v. Dep't of Hous. & Urb. Dev.*, Civ. No. 25-1965, 2025 WL 2105567, at *13 (D.D.C. July 28, 2025) ("So the Court is left providing a remedy with incidental benefits to applicants not before the Court.").

Id. See also Drs. for Am. v. Off. of Pers. Mgmt., No. CV 25-322 (JDB), 2025 WL 1836009, at *22 (D.D.C. July 3, 2025) (rejecting invoking CASA when "defendants do not argue that more tailored relief is even possible here, let alone appropriate. And as this is a case involving APA vacatur, not a universal or national injunction."). Other courts have also subsequently resolved after *CASA* that "unsupported agency action normally warrants vacatur." *Id.* (quoting *Advocs. for Highway & Auto Safety v. Fed. Motor Carrier Safety Admin.*, 429 F.3d 1136, 1151 (D.C. Cir. 2005).

Drs. for Am. v. Off. of Pers. Mgmt., No. CV 25-322 (JDB), 2025 WL 1836009, at *22 (D.D.C. July 3, 2025). *See also W.M.M. v. Trump,* -- F.4th --, 2025 WL 2508869, at *2 (5th Cir. Sept. 2, 2025) (issuing preliminary injunction in response to executive branch's erroneous interpretation of the law).[2]

Likewise, Petitioner is not seeking relief beyond the parties. Petitioner intentionally restrained the relief sought against the Executive Office for Immigration – a named party in this matter - to the Ft. Snelling Immigration Court. The Ft. Snelling Immigration Court rotates which immigration judge will preside over a particular bond hearing, so it is not possible to scale the judgment as applied more narrowly. Petitioner through count 1 is requesting a declaratory judgment that

[2] A search of decisions does not reveal that this district has engaged with CASA yet. *Shaik v. Noem*, No. CV 25-1584 (JRT/DJF), 2025 WL 2307619, at *2 (D. Minn. Aug. 11, 2025) specifically determined that there was no need to do so based the relief sought in the matter.

informs this particular party – the Executive Office for Immigration Review - that the Fort Snelling immigration judges have § 1226 authority to conduct a discretionary bond redetermination hearing for individuals placed in § 1229(a) proceedings after detention in the interior of the United States. This will be particularly important in the event Respondents do take Petitioner back into custody, as he will be subject to the jurisdiction of the Fort Snelling Immigration Court, the party against which he seeks the APA set aside action.

Petitioner accordingly object to the portion of the Report that advocates for not reaching the declaratory and APA counts under counts 1, 2, 4 and 5. The Court in fact has the authority to act, and Respondents' calcification of its legal positions requires the Court to resolve as a matter of law whether Respondents' interpretation is wrong and should not govern throughout Minnesota.

CONCLUSION

Petitioner asks that the Court grant the Petition for Writ of Habeas Corpus and the relief requested beyond ordering Respondents to allot Petitioner a bond hearing under § 1226. Specifically, he requests remedies outlined at points 6, 7, and 9 of his petition. While Petitioner is out of custody, this does little to establish what law applies to him and Respondents authority to detain him anew tomorrow. Moreover, the intervening Board of Immigration Appeals decision is ripe for this Court's APA assessment.

Respectfully submitted,

/s/ David L. Wilson **September 12, 2025**
Date

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