



Those assertions misread both the Immigration and Nationality Act (“INA”) and the Constitution. Even accepting that Petitioner was initially processed under § 1225(b)(2)(A), the statute does not authorize indefinite, unreviewed detention once removal proceedings are initiated and months have elapsed without adjudication. Congress never intended § 1225(b) to confer limitless power to imprison asylum seekers who have established a credible fear and await a § 240 hearing. The Government’s reading would transform a narrow inspection-stage provision into a license for prolonged confinement contrary to the structure of the INA, the Supreme Court’s guidance in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the balancing principles of *Mathews v. Eldridge*, 424 U.S. 319 (1976).

Since *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), DHS has applied a categorical detention policy to all arriving asylum seekers, stripping Immigration Judges of bond jurisdiction and foreclosing individualized review. Federal courts across the country have repudiated that policy. See *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726 (S.D. Tex. Oct. 7, 2025) (granting release); *G.S. v. Bostock*, No. 2:25-cv-1255 (W.D. Wash. Oct. 8, 2025) (holding *Hurtado* “inconsistent with statutory text and due process”); *Hdz-Hdz v. Crawford*, No. 1:25-cv-01565-AJT-WBP (E.D. Va. Oct. 16, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (D. Minn. Oct. 1, 2025). Each concluded that prolonged § 1225(b) detention of asylum seekers without bond review violates both the INA and the Fifth Amendment.

Petitioner’s case mirrors those decisions. He was detained at entry in June 2024, passed a credible-fear interview, and has since languished for over four months without a bond hearing or individualized assessment of flight risk or danger. His removal proceedings remain pending before the Tacoma Immigration Court. The continued deprivation of liberty without process, time limitation, or judicial oversight offends the core constitutional protections the Supreme Court

recognized in *Zadvydas* and *Mathews*. Respondents claim that all the process that is due to Petitioner is being provided, citing an October 31, 2025 Individual Hearing, but that hearing has now been rescheduled three (3) times, demonstrating that the Petitioner is subject to detention without a foreseeable end.

This Reply demonstrates that:

1. Section 1225(b) does not authorize unlimited or unreviewable detention of asylum seekers once proceedings are underway;
2. *Matter of Yajure Hurtado* is entitled to no deference after *Loper Bright v. Raimondo*, 603 U.S. 369 (2024);
3. The Government's application of § 1225(b) violates procedural and substantive due process under *Mathews* and *Zadvydas*; and
4. Respondents' reliance on *Jennings* and exhaustion doctrines is misplaced because constitutional habeas jurisdiction remains intact.

Petitioner therefore asks this Court to grant the writ and order his immediate release from custody.

## II. ARGUMENT

### II. ISSUE ONE: Whether Detention Under 8 U.S.C. § 1225(b)(2)(A) Authorizes Prolonged, Unreviewed Detention of an Asylum Seeker Who Has Passed Credible-Fear Review

Respondents argue that Petitioner “is properly detained under § 1225(b)(2)(A) because he was apprehended at a port of entry and has not been admitted to the United States,” asserting that

the statute “mandates detention throughout the pendency of his removal proceedings.” (Return at 4–5.) The issue is whether § 1225(b)(2)(A) permits the indefinite, unreviewed detention of an arriving asylum seeker who has already passed credible-fear screening and is awaiting a § 240 merits hearing.

Section 1225(b)(2)(A) provides that if an immigration officer determines an arriving noncitizen is inadmissible under § 1182(a)(6)(C) or (7), “the alien shall be detained for a proceeding under § 240.” The Supreme Court has clarified that while this provision authorizes temporary detention pending inspection and processing, it does not eliminate constitutional limits or judicial oversight. *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (declining to read an implicit six-month limit but emphasizing that constitutional challenges remain open). Detention authority under § 1225(b) is bounded by the Fifth Amendment’s Due Process Clause and the Supreme Court’s prohibition on arbitrary, indefinite confinement. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Multiple district courts have applied those principles to post-*Hurtado* detentions and held that § 1225(b) cannot be read to authorize prolonged detention without individualized review. *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 8 (S.D. Tex. Oct. 7, 2025) (“Detention under § 1225(b) ceases to be ‘brief and limited’ when it extends months beyond credible-fear adjudication.”); *G.S. v. Bostock*, No. 2:25-cv-1255, slip op. at 7 (W.D. Wash. Oct. 8, 2025) (“The Government’s reading would render § 1225(b) an open-ended grant of imprisonment inconsistent with due process.”); *Hdz-Hdz v. Crawford*, No. 1:25-cv-01565-AJT-WBP, slip op. at 12 (E.D. Va. Oct. 16, 2025) (“Even for arriving aliens, detention must remain reasonable and subject to judicial review.”).

Here, Petitioner was apprehended at entry in June 2024, found to possess a credible fear of persecution, and transferred to removal proceedings under § 240: precisely the context Congress contemplated when it enacted § 1225(b)(2)(A). Yet more than four months later, Petitioner remains in civil confinement at the Northwest ICE Processing Center with no bond hearing, no individualized risk assessment, and no meaningful opportunity to challenge his detention.

Respondents maintain that “§ 1225(b) mandates detention until removal proceedings are complete.” (Return at 5.) But that interpretation conflicts with both statutory text and precedent. Congress’s use of “shall be detained for a proceeding under § 240” was designed to ensure attendance at initial inspection and hearing and not to authorize prolonged incarceration untethered to enforcement necessity. *Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.”).

Courts have repeatedly held that detention exceeding a “brief and reasonable” period post-credible-fear adjudication becomes constitutionally suspect. *Buenrostro-Mendez*, slip op. at 8–9 (“Detention of a non-dangerous asylum seeker for months after credible-fear findings exceeds statutory and constitutional authority.”); *Belsai D.S. v. Bondi*, No. 25-cv-3682, slip op. at 6 (D. Minn. Oct. 1, 2025) (ordering release after four months). Likewise, Judge Pechman’s decision in *G.S.* granted habeas relief to a detainee who, like Petitioner, entered at a port of entry and was subjected to extended confinement despite a positive credible-fear determination. *G.S.*, slip op. at 9 (W.D. Wash. Oct. 8, 2025) (“The Constitution does not permit DHS to warehouse asylum seekers indefinitely under § 1225(b).”).

Under any fair reading, § 1225(b)(2)(A) cannot be stretched to authorize months-long, unreviewed detention of a bona fide asylum seeker pending an overburdened immigration docket. The Government's position would effectively write due process out of the statute and contravene the Fifth Amendment.

Because the INA does not authorize indefinite confinement under § 1225(b) and Petitioner's detention has become unreasonably prolonged without any individualized determination, it is both *ultra vires* and unconstitutional. This Court should order Petitioner's immediate release.

**ISSUE TWO: Whether *Matter of Yajure Hurtado* Is Entitled to Deference After *Loper Bright v. Raimondo***

Respondents rely on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), arguing that it “interprets § 1225(b)(2)(A) to require detention of all non-admitted aliens, including asylum seekers” and that “this agency interpretation is entitled to deference.” (Return at 6–7.) The issue is whether *Hurtado* retains any binding or persuasive force after the Supreme Court's decision in *Loper Bright v. Raimondo*, 603 U.S. 369 (2024).

In *Loper Bright*, the Supreme Court overruled *Chevron* and held that courts must exercise independent judgment in interpreting statutes; agency interpretations are not controlling unless they reflect the statute's best reading. 603 U.S. at 386–87. At most, agency reasoning is entitled only to such weight as its persuasiveness commands under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944). Post-*Loper Bright* decisions have uniformly declined to defer to *Hurtado* in the detention context. *Buenrostro-Mendez*, No. 4:25-cv-3726, slip op. at 5 (S.D. Tex. Oct. 7, 2025);

*G.S. v. Bostock*, No. 2:25-cv-1255, slip op. at 6 (W.D. Wash. Oct. 8, 2025); *Belsai D.S.*, No. 25-cv-3682, slip op. at 7 (D. Minn. Oct. 1, 2025).

Under *Loper Bright*, this Court owes no deference to *Hurtado*'s sweeping reinterpretation of § 1225(b). The BIA's decision rewrote statutory boundaries by treating every "non-admitted" person including asylum seekers who have passed credible-fear review as perpetually "arriving." That reading nullifies Congress's express cross-reference to § 240 removal proceedings and renders the procedural safeguards of § 1226(a) meaningless. As *Buenrostro-Mendez* observed, "*Hurtado* is inconsistent with the text, structure, and purpose of the INA and therefore entitled to no weight even under *Skidmore*." Slip op. at 6.

Moreover, *Hurtado* represents a radical departure from decades of agency practice, which consistently recognized bond jurisdiction over asylum seekers who had passed credible-fear review. *G.S.*, slip op. at 8 ("The government has abruptly reversed its position without explanation or statutory basis."). Such unexplained reversal fails the reasoned-decision requirement of *Encino Motorcars v. Navarro*, 579 U.S. 211, 222 (2016). Because *Hurtado* lacks textual support, conflicts with congressional intent, and violates the principle of reasoned agency action, it merits no deference or persuasive weight. *Loper Bright*, 603 U.S. at 389.

Finally, *Hurtado*'s categorical detention mandate contradicts *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003), both of which limit immigration detention to a "brief" and "reasonable" period necessary to accomplish its purpose. *Belsai D.S.*, slip op. at 6–7 (D. Minn. Oct. 1, 2025) (holding that reliance on *Hurtado* "defies controlling Supreme Court precedent"). Courts, not agencies, are the final arbiters of statutory meaning. *Loper Bright*, 603 U.S. at 387.

Because *Matter of Yajure Hurtado* is inconsistent with statutory text, Supreme Court precedent, and reasoned decision-making requirements, and because *Loper Bright* eliminated *Chevron* deference, this Court must interpret § 1225(b) independently. Every post-*Loper Bright* ruling has done so and rejected *Hurtado* outright. Accordingly, Respondents' reliance on that decision fails, and Petitioner's detention remains unlawful.

**ISSUE THREE: Whether Petitioner's Prolonged Detention Violates Procedural Due Process Under *Mathews v. Eldridge***

Respondents assert that "because Petitioner was apprehended at a port of entry, he has no right to a bond hearing or other process beyond what Congress has provided in § 1225(b)" and that "his detention remains mandatory until proceedings conclude." (Return at 7.) The issue is whether the Fifth Amendment nevertheless requires an individualized assessment of custody when detention under § 1225(b) becomes prolonged and unreasonably harsh.

Procedural due process applies to all "persons" in the United States, including arriving asylum seekers. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (recognizing limited liberty interests at the border). Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), courts balance (1) the private interest affected, (2) the risk of erroneous deprivation and the probable value of additional safeguards, and (3) the Government's interest and burdens of additional procedures. Prolonged immigration detention without an individualized review of necessity violates that standard. See *Hdz-Hdz v. Crawford*, No. 1:25-cv-01565-AJT-WBP, slip op. at 12 (E.D. Va. Oct. 16, 2025); *G.S. v. Bostock*, No. 2:25-cv-1255, slip op. at 8 (W.D. Wash. Oct. 8, 2025).

Petitioner has now been confined for over four months despite having passed credible-fear screening and established a viable asylum claim. He has no criminal record, poses no danger or flight risk, and seeks only the chance to present his claim to the Immigration Court. As *Hdz-Hdz* recognized, “the liberty interest implicated by continued civil detention after a credible-fear finding is at its zenith.” Slip op. at 10. The impact on Petitioner’s physical and mental health, as well as on his family waiting abroad, is severe and ongoing. Such a fundamental interest demands robust procedural protections.

The Government’s blanket application of *Hurtado* denies Petitioner any forum to contest detention, creating an extraordinary risk of error. As *G.S.* held, “DHS’s categorical refusal to consider release for arriving asylum seekers systematically deprives them of accurate custody determinations.” Slip op. at 9. Additional procedures, such as an individualized hearing before a neutral adjudicator, would entirely eliminate that risk at minimal cost. Indeed, Judge Trenga in *Hdz-Hdz* ordered release where the Government failed to justify continued detention beyond three months post-credible fear, finding that “the risk of arbitrary confinement cannot be tolerated under *Mathews*.” Slip op. at 12.

Respondents claim that mandatory detention serves border-control objectives. (Return at 8.) But once a credible fear finding has issued and removal proceedings begin, those objectives wane. The Government can ensure appearance through supervision or parole conditions. *Buenrostro-Mendez* noted that “continued detention of non-dangerous asylum seekers does not further legitimate enforcement interests and imposes significant fiscal and human costs.” Slip op. at 9. The EJA TRO Decision likewise found that detaining arriving asylum seekers indefinitely

“serves no discernible government interest once credible fear has been established.” ECF No. 20 at 18 (W.D. Wash. 2025).

The balance of interests tilts overwhelmingly in Petitioner’s favor. His liberty interest is extraordinary, the risk of error is grave, and the Government’s burden is minimal. As *Hdz-Hdz* concluded, due process requires that the Government either justify continued detention through an individualized hearing or release the asylum seeker. Slip op. at 13. Because Respondents have done neither, Petitioner’s detention violates the Fifth Amendment.

Under *Mathews v. Eldridge*, Petitioner’s continued detention without an individualized determination is constitutionally unreasonable. Due process demands release.

**ISSUE FOUR: Whether Petitioner’s Detention Violates Substantive Due Process and Constitutional Limits Under *Jennings v. Rodriguez* and *Zadvydas v. Davis***

Respondents contend that “*Jennings v. Rodriguez* forecloses constitutional limits on § 1225(b) detention,” and that the Court “may not impose judicially created time limits.” (Return at 8–9.) The issue is whether continued detention for months after credible-fear determination violates the Fifth Amendment’s substantive guarantee against arbitrary confinement.

The Supreme Court in *Jennings* declined to read a statutory time limit into § 1225(b) but expressly left open constitutional challenges to prolonged detention. 138 S. Ct. at 851 (“[W]e do not reach the constitutional arguments raised by respondents.”). Substantive due process prohibits detention that is no longer reasonably related to its purpose. *Zadvydas*, 533 U.S. at 690. Immigration detention is constitutional only for a period reasonably necessary to effect removal

or conduct proceedings. *Demore v. Kim*, 538 U.S. 510, 529 (2003) (“Detention must be for the brief period necessary for removal proceedings.”).

Petitioner’s continued detention is no longer reasonably related to any legitimate purpose. He has passed credible-fear review and awaits an asylum hearing that may not occur for months. As *Buenrostro-Mendez* explained, once the Government has completed initial processing, “detention serves only to punish and not to ensure appearance.” Slip op. at 9. Similarly, *G.S.* held that prolonged detention “offends the Fifth Amendment because it bears no reasonable relation to its stated administrative purpose.” Slip op. at 10. Here, Respondents have offered no evidence that Petitioner poses any danger or flight risk; their only justification is that the statute says ‘shall be detained.’ (Return at 4.) But constitutional limits cannot be abridged by statutory text. *Zadvydas*, 533 U.S. at 695.

Courts have routinely found that detention exceeding three to six months under § 1225(b) without an individualized review is unconstitutional. *Hdz-Hdz*, slip op. at 12 (ordering release after four months); *Belsai D.S.*, slip op. at 6 (D. Minn. Oct. 1, 2025) (same). The EJA TRO Decision reaffirmed that “*Jennings* did not authorize the government to detain asylum seekers indefinitely without process,” granting temporary relief for a Sri Lankan asylum seeker detained under identical circumstances. ECF No. 20 at 19–20 (W.D. Wash. 2025). Those decisions confirm that continued detention violates substantive due process because it has become excessive in relation to its non-punitive purpose. *Kingsley v. Hendrickson*, 576 U.S. 389, 398 (2015).

Respondents’ reading of *Jennings* and § 1225(b) would create precisely the type of indefinite civil confinement the Constitution forbids. Because Petitioner’s detention has long

since ceased to serve a legitimate purpose and no individualized review has occurred, this Court should declare the detention unconstitutional and order immediate release.

**ISSUE FIVE: Whether This Court Has Habeas Jurisdiction and Whether Exhaustion Is Required**

Respondents argue that “this Court lacks jurisdiction to consider Petitioner’s detention challenge” because “the Immigration and Nationality Act provides an exclusive review process,” and further that Petitioner “has failed to exhaust administrative remedies.” (Return at 10–11.) The issue is whether the Court retains habeas jurisdiction under 28 U.S.C. § 2241 and whether exhaustion is required when the agency’s policy forecloses relief.

Federal courts retain jurisdiction under 28 U.S.C. § 2241 to review the legality and constitutionality of immigration detention. *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (noting that § 2241 habeas jurisdiction remains available to challenge the “lawfulness of detention itself”); *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). The jurisdiction-stripping provisions in 8 U.S.C. § 1252 apply to removal orders, not to standalone detention challenges. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003).

As to exhaustion, federal courts waive any requirement when the agency has predetermined the issue or when resort to administrative procedures would be futile. *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992); *Hdz-Hdz v. Crawford*, No. 1:25-cv-01565-AJT-WBP, slip op. at 13 (E.D. Va. Oct. 16, 2025) (“Because the BIA’s interpretation is fixed by *Hurtado*, administrative exhaustion would be futile.”). The same reasoning was adopted in *G.S. v. Bostock*,

No. 2:25-cv-1255, slip op. at 10 (W.D. Wash. Oct. 8, 2025) and *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 9 (S.D. Tex. Oct. 7, 2025).

Petitioner does not challenge any final removal order; he challenges only the legality of his ongoing detention. Such claims fall squarely within § 2241. *Jennings*, 138 S. Ct. at 841; *Zadvydas*, 533 U.S. at 688. This Court has jurisdiction because Petitioner is detained within this District and under the direct custody of Respondent Wamsley, the warden of the Northwest ICE Processing Center. Venue and proper respondent are therefore satisfied.

Moreover, exhaustion is not required. The BIA has categorically denied bond jurisdiction for all § 1225(b) detainees under *Hurtado*. As the Western District of Washington recognized in *G.S.*, “where the agency’s interpretation is uniform and inflexible, exhaustion would be futile and only perpetuate unlawful detention.” Slip op. at 10. Petitioner has no administrative remedy available to challenge his custody; any appeal to the BIA would be summarily rejected under *Hurtado*.

Courts across multiple districts have accordingly waived exhaustion in identical circumstances. See *Belsai D.S. v. Bondi*, No. 25-cv-3682, slip op. at 8 (D. Minn. Oct. 1, 2025) (“Because *Hurtado* forecloses bond hearings, judicial review is the only available relief.”); *Buenrostro-Mendez*, slip op. at 9 (finding exhaustion futile where “the agency has predetermined the issue”). The same principle applies here: administrative exhaustion would serve no purpose other than to prolong unconstitutional confinement.

Because Petitioner’s habeas claim challenges only the legality of his detention, not a removal order, this Court has jurisdiction under § 2241. Exhaustion is excused as futile given

DHS's blanket *Hurtado* policy. Judicial intervention is not only proper but essential to prevent continued unlawful confinement.

**ISSUE SIX: Remedy, Equitable Considerations, and Prayer for Relief**

Having established that Petitioner's detention exceeds statutory and constitutional limits, the question is the appropriate relief. Respondents maintain that "release would improperly interfere with ongoing removal proceedings." (Return at 11.) The issue is whether this Court may order Petitioner's release from unlawful detention without disturbing the merits of removal.

Federal courts possess broad equitable authority under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require." *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). Where detention violates statutory or constitutional limits, immediate release is the presumptive remedy. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) ("[W]hen detention's legality is in doubt, release is the appropriate remedy."). Courts have consistently ordered release of asylum seekers detained under *Hurtado* without imposing further process. *Buenrostro-Mendez*, slip op. at 10 (granting unconditional release); *Hdz-Hdz v. Crawford*, slip op. at 14 (same); *G.S. v. Bostock*, slip op. at 12 (ordering immediate release).

Petitioner's detention is unconstitutional. He has been confined for more than four months after passing credible-fear screening, without any individualized review or justification. The Government's sole basis for confinement, *Hurtado*, is legally void after *Loper Bright* and constitutionally untenable under *Mathews*. Each day of continued confinement inflicts irreparable harm on Petitioner's physical and mental health and undermines the humanitarian principles underpinning the asylum system.

Respondents suggest that ordering release would “intrude upon the Executive’s enforcement discretion.” (Return at 11.) That argument has been rejected repeatedly. As *G.S.* held, “Courts do not intrude upon enforcement discretion by enforcing constitutional limits on detention.” Slip op. at 12. The EJA TRO Decision further emphasized that “[j]udicial review of unconstitutional detention is not interference; it is the performance of the Court’s duty.” ECF No. 20 at 21 (W.D. Wash. 2025).

Immediate release is warranted because further delay would perpetuate an ongoing constitutional violation. The Government has had ample opportunity to justify detention and failed to do so. No legitimate interest supports continued confinement. As the Eastern District of Virginia observed, “When detention ceases to be tethered to its lawful purpose, release is not discretionary—it is required.” *Hdz-Hdz*, slip op. at 14.

### III. CONCLUSION AND PRAYER FOR RELIEF

For all the foregoing reasons, this Court should grant the Petitioner’s prayers for relief.

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