UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

Gurveer Singh, Petitioner, v. TODD M. LYONS, *et al.* *Respondents.*	**Case No. 1:25-cv-01574 (LMB/WEF)**

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Respondents' opposition repeats arguments that this Court has already rejected. In *Hasan v. Crawford, Abreu v. Crawford*, and *Portillo v. Hott*, judges in this District have held that individuals apprehended within the United States, even those who entered without inspection, are detained under 8 U.S.C. § 1226(a) and are entitled to bond hearings.

Respondents' reliance on *Matter of Yajure Hurtado* is misplaced: that decision binds Immigration Judges and the BIA, but not this Court. Unless this Court intervenes, Petitioner will remain indefinitely detained with no forum available to adjudicate his bond eligibility. The Great Writ exists to prevent precisely this kind of unlawful restraint.

I. THIS COURT HAS JURISDICTION

Respondents argue this Court lacks jurisdiction under 8 U.S.C. §§ 1252(b)(9) and 1252(g). But these provisions concern review of removal orders, not detention challenges. The Supreme Court in Jennings v. Rodriguez, 583 U.S. 521 (2018), and the Fourth Circuit in Miranda

v. Garland, 34 F.4th 338 (4th Cir. 2022), both confirmed habeas jurisdiction over detention claims. Numerous decisions in this District—Hasan, Abreu, Portillo—have squarely rejected Respondents' jurisdictional theory. Importantly, because Matter of Yajure Hurtado deprives Immigration Judges and the BIA of authority to conduct bond hearings for individuals like Petitioner, federal court is the only forum available to vindicate his rights.

II. SECTION 1226(A) GOVERNS PETITIONER'S DETENTION

Decades of statutory interpretation and regulatory history confirm that individuals arrested inside the United States, including those who entered without inspection, are detained under 8 U.S.C. § 1226(a), not § 1225(b). The 1997 Interim Rule explicitly recognized that such individuals are bond-eligible, and for nearly thirty years EOIR uniformly provided bond hearings. Congress ratified this practice in 2025 when it amended § 1226(c) in the Laken Riley Act, carving out a subset of inadmissible noncitizens for mandatory detention—an amendment that would be superfluous if all EWIs were already subject to § 1225 mandatory custody.

EDVA has recently reaffirmed this framework. In Hasan v. Crawford (2025) and Abreu v. Crawford (2025), this Court held that detention of individuals apprehended in the interior falls under § 1226(a). Courts across the country—including Pizarro Reyes v. Raycraft (E.D. Mich. 2025), Dos Santos v. Noem (D. Mass. 2025), and Rodriguez Vazquez v. Bostock (W.D. Wash. 2023)—have uniformly rejected DHS's attempt to reclassify EWIs as § 1225 detainees. This Court should do the same.

More recently, this Court in Quispe-Ardiles v. Noem, et al. (VAED-1:25-cv-01382), District Judge Michael S. Nachmanoff ordered respondents to immediately release the petitioner from custody. The court there concluded that the petitioner is detained pursuant to 8 U.S.C. § 1226(a). There are conclusions made that noncitizens who falls under § 1226(a) are not subject

to mandatory detention, but rather, those detained under Section 1226(a) are entitled to a bond hearing before an Immigration Judge at any time before entry of a final removal order. "Pending a removal decision, the Attorney General may continue to detain an arrested noncitizen, release them on bond, or release them on conditional parole, unless they fall within certain exceptions involving criminal offenses and terrorist activities. See 8 U.S.C. § 1226(a) (1)-(2), (c)." *See* page 10. See also cases like this one in which Judge Leonie M. Brinkema granted the petitioners' habeas petitions and ordered that the petitioners be released from custody (see cases like 1:25-cv-1574, 1:25-cv-1583, 1:25-cv-1590).

To show evidence of Petitioner's prolonged detention, DHS-ICE's refusal to grant him parole, evidence of his Section 240 immigration hearing, pending asylum (filed on June 13, 2020), evidence of positive equities (and that he is not a danger to the community and not a flight risk), and proposed release plan, see the enclosed **Exhibits A-K**.

III. PROLONGED MANDATORY DETENTION WITHOUT A BOND HEARING VIOLATES DUE PROCESS

Even if the statute were ambiguous, due process demands a bond hearing. The Fifth Amendment protects against indefinite civil confinement without individualized review. Zadvydas v. Davis, 533 U.S. 678 (2001), and Demore v. Kim, 538 U.S. 510 (2003), both recognized limits on immigration detention. EDVA courts have repeatedly found that detentions exceeding several weeks without bond hearings raise serious constitutional concerns. Respondents' position—that Petitioner can be held indefinitely with no review—is inconsistent with both precedent and fundamental fairness.

RELIEF REQUESTED

For the foregoing reasons, this Court should grant the writ. In the alternative, Petitioner requests an order requiring DHS to provide him with a bond hearing before an Immigration Judge within 7 days. At that hearing, the IJ must apply § 1226(a) standards and the government must bear the burden to prove by clear and convincing evidence that continued detention is necessary. Without such an order, the IJ and BIA will rely on *Matter of Yajure Hurtado* to deny jurisdiction, leaving Petitioner with no remedy. This Court must ensure that Petitioner's liberty is not denied without lawful authority or due process.

CONCLUSION

Respondents' opposition is inconsistent with statute, precedent, due process, and decades of policy. This Court should reject DHS's arguments, grant the petition, and order Petitioner's immediate release or a bond hearing. Should a hearing be necessary, we ask for an early hearing date (except October 6 and October 9 since undersigned counsel is not available then).

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