UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOSE HERNANDEZ RAMIRO,	§	
Petitioner,	§	
	§	Civ. No. 5:25-CV-01207-XR
vs.	§	
PAMELA BONDI, UNITED STATES ATTORNEY GENERAL, *et al.*,	§	**RESPONSE OF PETITIONER TO THE RESPONDENTS' ANSWER TO HIS WRIT OF HABEAS CORPUS**
Respondents.	§	

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I. INTRODUCTION

The Petitioner, Mr. Hernandez Ramiro, timely submits his traverse to Respondents' response to his habeas petition. On September 30, 2025, this Court ordered Respondents to respond within three days of service. Dkt. 2. Respondents filed their response on October 9, 2025, urging denial. Dkt. 10. Federal Respondents maintain that Petitioner's detention is lawful. Dkt. 10 at 2.

Respondents first argues that Petitioner is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2), relying on the BIA's precedential decision in *Matter of Yajure-Hurtado*, and that bond under § 1226(a) is categorically unavailable (with parole as the sole safety valve). Dkt. 10 at 1–2, 6–8. Second, the Government asserts that this Court lacks jurisdiction because (i) § 1252(g) bars claims "arising from" DHS's decision to commence and adjudicate proceedings—purportedly including the decision to detain—and (ii) §§ 1252(b)(9) and 1252(a)(5) channel all questions "arising from" actions taken to remove into the courts of appeals via petition for review. Dkt. 10 at 11–13. Third, the Government characterizes the petition as a challenge to "the decision to detain … in the first place," invokes *Jennings* to bar such threshold challenges in district court, and maintains that detention is an "action taken … to remove" within § 1252(b)(9). Dkt. 10 at 15–16. Fourth, on the merits, the Government contends pre-order detention is lawful and constitutional because proceedings provide a definite endpoint, due process affords no bond-hearing right beyond the statute, and contrary district decisions are distinguishable; by analogy to § 1226(c), they argue mandatory detention poses no constitutional problem. Dkt. 10 at 16–19. Finally, they ask the Court to dismiss any non-habeas claims (e.g., APA/EAJA) as the wrong vehicle/fee and to deny habeas relief in full. Dkt. 10 at 1–2, 20–21. Notably, the Government does not engage with Petitioner's threshold point that, after *Loper*

Bright Enterprises v. Raimondo, 144 S. Ct. 2244 (2024), the Court owes no deference to the Government's interpretation of the INA or its regulations; the statutory questions presented here are for the Court to decide de novo.

Petitioner filed an Ex Parte Motion for Temporary Restraining Order on October 1, 2025, and the Court held a hearing on October 6, 2025. See ECF No. 3 (TRO Mot.). During that hearing, the Court directed the Respondents to respond to the TRO with any cases in support of their position within two days and afforded Petitioner the same period to file any supplemental briefing; the Court also confirmed with Respondents' counsel an understanding that he would request that Petitioner not be transferred and that the Court would retain jurisdiction even if Petitioner were moved. (Oct. 6, 2025 Hr'g Tr. 14:6–16.)

On October 15, 2025, this Court granted Petitioner's Motion for a Temporary Restraining Order. Dkt. 14. The Court ordered Respondents to provide Petitioner a bond hearing before an Immigration Judge no later than October 22, 2025, with the Government bearing the burden to justify continued detention by clear and convincing evidence based on dangerousness or flight risk; if Respondents cannot provide the hearing by October 22, they must release Petitioner under reasonable conditions of supervision. Dkt. 14 at 7. The Court further ordered Respondents to produce a complete copy of Petitioner's administrative file maintained by DOJ and DHS—relevant to the bond hearing and the habeas petition—no later than October 20, 2022 (sic). Dkt. 14. at 7. The Court denied Petitioner's request to enjoin any administrative stay because Respondents have not invoked, and Petitioner has not shown they are likely to invoke, the 8 C.F.R. § 1003.19(i)(1) automatic stay. Dkt. 14. Petitioner addresses this point below—because of new information that Respondents in similar cases ARE invoking the regulatory stay, reserved for emergencies, rather than the normal appeal route. Finally, the Court directed Respondents to notify the Court by

October 23, 2025, whether Petitioner has been released and, if not, to report when the bond hearing occurred and the reasons for any continued detention. Dkt. 14 (signed Oct. 15, 2025).

II. BRIEF SUMMARY OF FACTS

Petitioner, age 40, has lived in the United States for more than twenty-four years. Dkt. 1 at 7. He resides in Austin, Texas with his three U.S.-citizen children—ages 4, 6, and 17—for whom he provides daily care and primary financial support. He was detained on September 16, 2025, after a traffic stop in Austin which he was a passenger and he remains in civil immigration custody at the South Texas Detention Complex in Pearsall (STDC), without a bond. *Id.* His health conditions include Type 2 diabetes and hyperlipidemia, requiring daily medication; treatment was delayed by facility staff for several days and his full regimen has not consistently been provided. *Id* at 11. His only criminal history is a single January 14, 2022, conviction for misdemeanor Driving While Intoxicated under Tex. Penal Code § 49.04, for which he received three days' confinement; in more than 20 years he has no other arrests or convictions. *Id* at 7. His next immigration hearing is set for October 24, 2025, at 8:30 a.m. Dkt. 3-4. On October 1, 2025, the Immigration Judge denied his request for bond stating he had no jurisdiction citing *Matter of Yajure Hurtado*. Dkt. 3-1, IJ Order Denying Bond. Petitioner appealed that denial to the BIA the same day, and the appeal remains pending. Dkt. 3-2. On October 16, 2025, per this Court's October 15, 2025, TRO, he filed a new bond request with the Immigration Court. As of the writing of this return no hearing has been set.

Based on these facts, Petitioner is prima facie eligible for relief, namely, for non-LPR cancellation of removal under INA § 240A(b)(1) (Form EOIR-42B). He satisfies the continuous-physical-presence requirement, having accrued well over ten years even before service of the 2025 NTA (stop-time). 8 U.S.C. § 1229a(b), (d). He has maintained good moral character during the

statutory period, there is no bar under 8 U.S.C. 1101(f). His DWI conviction resulted in three-day sentence, well below the 180-day confinement bar at 8 U.S.C. 1101(f)(3). Nor does he have any controlled-substance or other disqualifying offenses under INA §§ 212(a)(2) or 237(a)(2)–(a)(3). Finally, removal would result in "exceptional and extremely unusual hardship" to his U.S.-citizen children, who depend on him for daily caregiving, stability, and financial support. His younger children would face acute childcare and developmental disruption, and the 17-year-old would lose critical parental guidance during a pivotal stage—harms exacerbated by the family's reliance on Petitioner's income and by the foreseeable strain caused by his chronic medical conditions. Dkt. 1 at 7.

III. ARGUMENT

A. The Court Should Reject Respondents' Argument That the Plain Language of Sections 1225 and 1226 Require Mandatory Detention for Noncitizens Who Are Present without Admission after Many Years within the United States, and Hold It Owes No Deference to *Matter of Yajure-Hurtado*

Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) until full removal proceedings have concluded. Dkt. 10 at 2, 7-10. Their contention—as many district courts to have considered such contention have found—is novel. *Romero v. Hyde*, 2025 WL 2403827, at *9 (D.Mass., 2025) (This argument reflects a novel interpretation of the immigration detention statutes, adopted by DHS about a month ago. *See Diaz Martinez*, —— F. Supp. 3d at —— & nn.9–11, 2025 WL 2084238, *4–5 (D. Mass. July 24, 2025)). The courts have uniformly been rejecting this novel reading of the detention statutes in the INA.[1] As the numerous

[1] *Ortiz-Ortiz v. Bondi,* No. 5:25-cv-00132 (S.D. Tex. Oct. 15, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025); *Choglio v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *1 (D. Me. 2025); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Palma v. Trump*, No. 4:25CV3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Carlon v. Kramer*, No. 4:25CV3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *Perez v. Kramer*, No. 4:25CV3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Martinez v. Secretary of Noem,* No. 5:25-CV-01007-JKP, 2025 WL 2598379 (W.D.

district court decisions note, and as Petitioner himself noted in his petition, recently, ICE has reversed—without warning and without any publicly stated rationale—course and adopted a policy of attempting to treat all individual noncitizens that were not previously admitted to the U.S. that are contacted in the interior of the U.S. at any time after their entry as "arriving" and ineligible for bond regardless of the particularities of their case. *See* Dkt. 1-2. The Lyons two-page memorandum states on p. 1:

> Effective immediately, it is the position of DHS that [applicants for admission under section 235(a)(1) of the Immigration and Nationality Act] are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are not treated in the same manner that "arriving aliens" have historically been treated.

Id. As a result, ICE is now ignoring particularities that have historically been highly relevant to determinations whether a noncitizen such remain or custody or be released—such as: when, why, or how they entered the U.S.; whether they have criminal convictions; whether they present a danger to the community or flight risk; whether they have serious medical conditions requiring treatment.

First, as several courts have recently explained, § 1225 imposes three conditions that must be satisfied for § 1225(b)(2)(A) to apply and justify mandatory detention. *See, e.g., Benitez,*

Tex. Sept. 8, 2025); *Herrera Torralba v. Knight*, No. 2:25-CV-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); Fernandez v. Lyons, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Perez v. Berg,* No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); Leal-Hernandez v. Noem, No. 1:25-CV-02428- JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer,* No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); Anicasio v. Kramer, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); Mohammed H. v. Trump, No. CV 25-1576 (JWB/DTS), 2025 WL 1692739, at *5–6 (D. Minn. June 17, 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025); *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.*, 5:25-cv-01873-SSS-BFM, Dkt # 14 (C.D. Ca. Jul. 28, 2025); *Rodriguez v. Bostock,* No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *16 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025); and *Santiago v. Bondi*, No. EP-25-CV-2128 (W.D. Tex. Oct. 1, 2025). But see *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal, Sept. 24, 2025) and; *Vargas Lopez v. Trump*, 2025 WL 27080351 (D. Neb. Sept. 30, 2025).

2025 WL 2371588, at *5 ("[F]or section 1225(b)(2)(A) to apply, several conditions must be met—in particular, an 'examining immigration officer' must determine that the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'") (quoting *Martinez v. Hyde*, --- F. Supp. 3d ----,. 2025 WL 2084238, at *2 (D. Mass. July 24, 2025)); § 1225(b)(2)(A). Fatal here to Respondents' argument is that Petitioner is now "seeking admission." *Id.* It is undisputed that Petitioner's Notice to Appear (NTA) charges him as an alien present United States who has not been admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." *See* Dkt. 10 at 2, 7. The Respondents here have not disputed that he entered the U.S. unlawfully without apprehension in 2001. Dkt. 1 at 9. The Court should find that it is axiomatic that a person *present in the United States,* here for over 20 years, is *not* an individual seeking admission to the United States. The Board of Immigration Appeals (BIA) in *Matter of Yajure-Hurtado* meanwhile has ruled in favor of Respondent's arguments, on September 5, 2025, in a published decision, however Petitioner argues here that this Court need not defer to the BIA's interpretation, and should reject its reasoning. The appellate panel in *Yajure-Hurtado* leaves aside unmentioned the geographic absurdity of seeking admission after decades of presence in the interior, and instead finds "plain statutory language" controls:

> The respondent's argument is not supported by the plain language of the INA, and actually creates a legal conundrum. If he is not admitted to the United States (as he admits) but he is not "seeking admission" (as he contends), then what is his legal status? The respondent provides no legal authority for the proposition that after some undefined period of time residing in the interior of the United States without lawful status, the INA provides that an applicant for admission is no longer "seeking admission," and has somehow converted to a status that renders him or her eligible for a bond hearing under section 236(a) of the INA, 8 U.S.C.A. § 1226(a). See Matter of Lemus, 25 I&N Dec. 734, 743 & n.6 (BIA 2012) (noting that "many people who are not actually requesting permission to enter the United States in the ordinary sense [including aliens present in the United States who have not been admitted] are nevertheless deemed to be 'seeking admission' under the immigration laws").

Matter of Yajure-Hurtado, 29 I&N Dec. at 221. The BIA goes on to hold that "[t]he statutory text of the INA is not "doubtful and ambiguous" but is instead clear and explicit in requiring mandatory detention of all aliens who are applicants for admission, without regard to how many years the alien has been residing in the United States without lawful status. *See* INA § 235(b)(1), (2), 8 U.S.C. § 1225(b)(1), (2)." But because Petitioner is not, nor was he at the time he was arrested, "seeking admission," *id.*, § 1225(b)(2)(A)'s mandatory detention provision does not apply. Respondents are wrong to interpret the statute as placing Petitioner within the definition of individuals deemed to be "applicants for admission," the specific detention authority under § 1225." Dkt. 10 at 7. *See also Romero v.Hyde*, --- F. Supp. 3d ----, 2025 WL 2403827, at *9 (D. Mass. Aug. 19, 2025) ("[T]he phrase 'seeking admission,' otherwise undefined in the statute, necessarily requires some 'some sort of present-tense action.') (citation omitted); *Campos-Leon v Forestal*, 1:25-cv-01774-SEB-MJD, (S. D. Ind. September 22, 2025*); Doe v. Moniz*, 2025 WL 2576819, at *1 (D.Mass., 2025).

As the Supreme Court recognized in *Jennings*, § 1225(b) is concerned "primarily [with those] seeking entry," and is generally imposed "*at the Nation's borders and ports of entry*, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 297, 287. Throughout its text, the statute refers to "inspections"—a term not defined in the INA but which typically connotes an examination upon or soon after physical entry. Many statutory provisions, various regulations and agency precedent discuss "inspection" in the context of admission processes at ports of entry, further supporting the conclusion that § 1225 has a limited temporal and geographic scope.[2] Consistent with this focus on the moment of physical

[2] *See* INA § 235 (titled "Inspection by immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing"); INA §§ 235(b)(1)–(2) (referring to "inspections" in their titles); INA § 235(d)(1) (authorizing

entry, § 1225(b)(2) is limited to those in the process of "seeking admission." Similarly, the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are presently "coming or attempting to come into the United States." The statutory and regulatory text's use of the present and present progressive tenses excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. A number of the courts cited above have agreed that § 1225(b)(2) only reaches individuals who are in the process of entering or who have just entered the United States.

Additionally, the INA's statutory structure makes clear that § 1226 also reaches individuals who have not been admitted and have entered without inspection. Section 1226(c) exempts specific categories of noncitizens from the default eligibility to seek release on bond in § 1226(a), including noncitizens subject to certain grounds of inadmissibility. Moreover, Congress recently added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted,[3] expressly including those who are inadmissible under INA § 212(a)(6)(A), or (7)--that is, persons who entered without being admitted. If § 1226(a) did not apply to inadmissible noncitizens, then the carve out in § 1226(c) that refers to inadmissibility and Congress' most recent amendments would all be surplusage.

The statutory history also supports a limited reading of § 1225(b)'s reach. When Congress amended § 1225(b)'s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked the documents to remain in the country. There was no suggestion in the legislative history that Congress intended to subject all people present in

immigration officials to search certain conveyances in order to conduct "inspections" where noncitizens "are being brought into the United States").

[3] INA § 236(c)(1)(E), *as amended by* Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025).

the United States after an unlawful entry to mandatory detention and thereby transform immigration detention and sweep millions of noncitizens into § 1225(b).[4]

Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, a federal habeas court should independently interpret the meaning and scope of § 1225(b) using the traditional tools of statutory construction.[5] Because the BIA's decision in *Matter of Yajure Hurtado* is a deviation from the agency's long-standing interpretation of §§ 1225 and 1226; is not guidance issued contemporaneously with enactment of the relevant statutes; and contradicts the statutory interpretations of dozens of federal courts, a habeas court should give it no weight under *Loper Bright* or *Skidmore.* Indeed, a number of courts have instead found that under *Loper Bright*, the prior longstanding practice of the government—under which noncitizens who resided in the United States and previously entered without inspection were deemed subject to INA § 236—is a useful interpretive aid.[6]

B. *Thuraissigiam* Does not Apply here

Respondents lean on *Dep't of Homeland Sec. v. Thuraissigiam*, arguing it forecloses Petitioner's challenge to his custody and compels mandatory detention under § 1225(b)(2). *See* Dkt. 10 at 6–8, 15–16 (characterizing Petitioner as "seeking admission," invoking *Thuraissigiam* to minimize due process in the "applicant for admission" context, and insisting detention is part of the "action taken to remove"). That reliance is misplaced for three independent reasons.

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[4] *See, e.g.*, INA §§ 217(h)(2)(B)(i), 235A; 8 U.S.C. § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010).

[5] *See, e.g., Martinez*, 2025 WL 2084238 at *6 (citing the use of present and present progressive tense to support conclusion that INA § 235(b)(2) does not apply to individuals apprehended in the interior); *accord Lopez Benitez*, 2025 WL 2371588 at *6–7. *See also United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes."); *Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is arriving" in INA § 235(b)(1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes an ongoing process").

[6] *See, e.g., Maldonado*, 2025 WL 2374411 at *11.

First, *Thuraissigiam* is a deportability (admission-process) case, not a detention-authority case. The petitioner there sought a second chance at admission-related relief in expedited removal; he did not seek habeas release from civil custody, and the Court framed its analysis around the "scope of habeas" in the admission context—i.e., it cannot be used to demand another "opportunity to remain lawfully in the United States." 591 U.S. at 117–20, 140. Nothing in *Thuraissigiam* decided whether—much less how—noncitizens may challenge the fact or length of immigration detention. That question was expressly left open in *Jennings v. Rodriguez*, which resolved only statutory issues and remanded the constitutional due-process questions. 583 U.S. 281, 297–301, 312 (2018). Four years later, the Government told the Court that "as-applied constitutional challenges remain available" in the detention context. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 583 (2022). The Western District of Texas has already drawn this precise line: in *Santiago v. Bondi*, the court explained that *Thuraissigiam* concerns admission and removal, "not whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention"—which is exactly what Santiago (and here, Petitioner) asserted. No. 3:25-cv-00361-KC, slip op. at 10–13 (W.D. Tex. Oct. 15, 2025). Respondents' brief never engages that distinction.

Second, the text, structure, and history of the INA foreclose Respondents' "everyone is 'seeking admission' forever" theory. Section 1225(b)(2)(A) applies only when an examining officer determines the person is an "applicant for admission," is seeking admission, and **is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (present-tense language tied to inspection/admission). That grammar and placement—as *Jennings* observed—reflect § 1225's focus "primarily [on those] seeking entry," typically "at the Nation's borders and ports of entry." 583 U.S. at 297, 287. By contrast, Congress designed § 1226 to govern custody

for persons arrested in the interior and placed in full § 240 proceedings, with targeted, offense-specific mandatory-detention carveouts in § 1226(c). If § 1225(b)(2) automatically controlled everyone "present without admission," then § 1226(a)'s bond default and § 1226(c)'s tailored exceptions (including express references to inadmissibility, such as § 212(a)(6)(A) and (7)) would be surplusage—an atextual result Respondents never confront. *See* Dkt. 10 at 6–8 (invoking *Matter of Yajure-Hurtado* but not addressing § 1226's carveouts or surplusage). Courts addressing DHS's July 2025 pivot have rejected the Government's bid to erase the "seeking admission" requirement for long-present interior arrestees.[7]

Third, after *Loper Bright*, *Yajure-Hurtado* is not entitled to deference—and it is unpersuasive on its own terms. The BIA's September 2025 opinion posits a false dichotomy: if a person has never been "admitted," they must still be "seeking admission," no matter how many years they have lived here. 29 I. & N. Dec. 214, 221 (B.I.A. 2025). But the statute's present-tense

[7] See, e.g., *Romero v. Hyde*, 2025 WL 2403827, at *9 (D. Mass. Aug. 19, 2025) (calling DHS's theory a "novel interpretation" adopted only weeks earlier); *Martinez v. Hyde*, 2025 WL 2084238, at *2, *8 (D. Mass. July 24, 2025) ("seeking admission" requires "present-tense action" tied to entry/inspection); *Benitez v. Hyde*, 2025 WL 2371588, at *5 (D. Mass. Aug. 13, 2025) (listing § 1225(b)(2)(A) conditions unmet in an interior arrest). Accord *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. Oct. 15, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025); *Chogllo v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *1 (D. Me. 2025); *Hasan v. Crawford*, No. 1:25-cv-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Palma v. Trump*, No. 4:25CV3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Carlon v. Kramer*, No. 4:25CV3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *Perez v. Kramer*, No. 4:25CV3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Martinez v. Secretary of Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Herrera Torralba v. Knight*, No. 2:25-cv-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Fernandez v. Lyons*, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Mohammed H. v. Trump*, No. 25-1576 (JWB/DTS), 2025 WL 1692739, at *5–6 (D. Minn. June 17, 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025); *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Dkt. 14 (C.D. Cal. July 28, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *16 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025); *Santiago v. Bondi*, No. EP-25-CV-2128 (W.D. Tex. Oct. 1, 2025). But see *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, 2025 WL 27080351 (D. Neb. Sept. 30, 2025).

text, its border-inspection context, and § 1226's architecture refute that premise. Under *Loper Bright Enterprises v. Raimondo*, courts "owe no deference" to an agency's interpretation simply because the statute is ambiguous; rather, courts independently construe the statute using the traditional tools. 144 S. Ct. 2244, 2262–63 (2024). And under *Skidmore*, a late-breaking, two-page policy shift (the July 8, 2025 Lyons memo (Dkt. 1-2)) and a fast-follow BIA decision that contradict decades of § 1226 practice and the accumulating federal caselaw merit little weight. See *Matter of Yajure Huratdo*, 29 I. & N. Dec. 214 (B.I.A. 2025). Respondents' brief does not grapple with *Loper Bright* at all, nor do they justify why a litigation-driven reversal should displace the longstanding reading that interior § 240 cases are governed by § 1226(a) unless § 1226(c) applies. *See* Dkt. 10 at 6–8 (asserting "plain language" and citing *Yajure-Hurtado*).

Respondents also cherry-pick dicta from *Thuraissigiam* noting that confinement during expedited-review proceedings was not disputed in that case, 591 U.S. at 118, and then treat that aside as a blanket endorsement of mandatory detention for anyone deemed an "applicant for admission." But *Santiago* squarely rejected that move, explaining that *Thuraissigiam* "constrain[ed] itself" to the admission process and does not foreclose due-process challenges to detention; indeed, the Supreme Court "has not addressed the viability of constitutional due-process challenges to mandatory immigration detention," and recent authority reaffirms that "the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." *Santiago*, slip op. at 11–14 (citing *Jennings*, 583 U.S. at 312; *Arteaga-Martinez*, 596 U.S. at 583; and *Reno v. Flores*, 507 U.S. 292, 306 (1993)). The Government's heavy emphasis on *Thuraissigiam* thus collapses the crucial line between deportability and detention. Petitioner, like Santiago, challenges only the lawfulness of his civil confinement and the Government's refusal to afford a bond hearing—not any entitlement to remain in the United States.

In short, *Thuraissigiam* does not carry the Government's burden. Properly read, the text and structure of the INA place long-present, interior arrestees like Petitioner within § 1226(a) (subject to § 1226(c)'s specific exceptions), not § 1225(b)(2). The Government's contrary theory would transform § 1225 into an all-purpose detention mandate, nullify Congress's § 1226 framework, and disregard the deportability-versus-detention distinction recognized in *Jennings*, confirmed by the Government in *Arteaga-Martinez*, and applied by the Western District of Texas in *Santiago*. This Court should therefore reject Respondents' *Thuraissigiam* argument and decline to defer to *Yajure-Hurtado*.

C. The Record Demonstrates Detention Is Pursuant to § 236(a), Not § 235(b)

The Government's own records show Petitioner was arrested in Austin, Texas on September 16, 2025, as a noncitizen already present in the interior—not at or near the border—with ICE executing a Form I-200 "Warrant for Arrest of Alien." Exh. 1, Form I-200. Critically, the I-200 itself identifies the statutory basis for the arrest as "section 236 of the INA (8 U.S.C. § 1226)." *Id.* An arrest "on a warrant issued by the Attorney General" is the hallmark of § 236(a): "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed." 8 U.S.C. § 1226(a). That contemporaneous designation squarely places Petitioner's custody within § 236(a)'s framework for § 240 proceedings and undermines Respondents' later assertion that detention is under § 235(b)(2)(A). By contrast, § 235(b)(2)(A) turns on an examining officer's admission-stage determination that the person is "seeking admission" and "not clearly and beyond a doubt entitled to be admitted"—language embedded in the inspection context, not interior arrests. Respondents did not invoke § 235(b)(2)(A) until after Petitioner requested a bond redetermination; the Court should not credit that post-hoc recharacterization. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591

U.S. 1, 22, 24 (2020) (agency action must stand or fall on the reasons given at the time, not on "impermissible post hoc rationalizations"). Courts addressing materially identical records—interior arrests documented by I-200 warrants and placement in § 240 proceedings—likewise hold that § 236(a) governs, not § 235(b)(2). *See, e.g., Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. Oct. 15, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025); *Martinez v. Secretary of Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Romero v. Hyde*, 2025 WL 2403827, at *9 (D. Mass. Aug. 19, 2025); *Benitez v. Hyde*, 2025 WL 2371588, at *5 (D. Mass. Aug. 13, 2025).

D. The Court Should Reject the Respondents' Jurisdictional Challenge

While Respondents argue exhaustion, Petitioner remarks merely that even though he has exercised his right, and has filed a bond appeal, Dkt. 1, Exh. 2, it unnecessary because any administrative appeal of bond is foreclosed now by the BIA in *Matter of Yajure-Hurtado*. Respondents, confoundingly, do not recognized the futility of an appeal. Dkt. 10 at 13–14. It would clearly be futile. Nor even, in the absence of the BIA's controlling precedent in *Yajure-Hurtado*, would exhaustion be appropriate, *see Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) (where Petitioner has raised serious constitutional claims, administrative exhaustion should be excused absent a clear expression from Congress – and the INA does not require or mandate exhaustion of administrative remedies (quoting *McCarthy v. Madigan,* 503. U.S. 140, 144 (1992)).

Where no statute or rule mandates exhaustion, it is then within the Court's "sound judicial discretion" whether to require exhaustion. *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013). This is also known as "prudential exhaustion." *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019). The Fifth Circuit has held that claims of due process violations,

except for procedural errors that are correctable by the BIA, are generally not subject to the exhaustion requirement. *Anwar v. INS,* 116 F.3d 140, 144 n. 4 (5th Cir.1997). Here, the BIA has already indicated its view that forecloses any success he might have at the BIA on his currently pending bond appeal. *Matter of Yajure-Hurtado*, 29 I&N Dec. at 221.

The central question at issue here is whether Section 1225 or Section 1226 applies to Petitioner. This is a purely legal question of statutory interpretation and does not require a record. Alternatively, this Court is not bound, or deferential to any agency interpretation of a statute. *Loper Bright Enter. v. Raimondo, 603 U.S. 369, 413 (2024)* ("courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous."). Second, because of the Constitutional violation Petitioner asserts, an appeal to an administrative review board, here the BIA, is not necessary. Courts have held due process challenges generally do not require exhaustion because the BIA cannot review constitutional challenges. *See, e.g., Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006). Lastly, the government here has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead it to changing its position and thus precluding judicial review. *Id.* As a result, this Court should find that prudential exhaustion is not required.

In the alternative, a court can also choose to waive exhaustion, when the "legal question is fit for resolution and delay means hardship." *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000). Courts may require prudential exhaustion when: (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes

and to preclude the need for judicial review. *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025). Here, all factors favor weigh against requiring exhaustion.

Bond appeals before the BIA take on average six months to complete. *Lopez-Campos*, 2025 WL 2496379, at *5 (citing *to Rodriguez v. Bostock*, 779 F.Supp.3d 1239, 1245 (W.D. Wash. 2025)). But as stated, this is the "legal question" that is "fit for resolution." *Shalala*, 529 U.S. at 13. Prolonging Petitioner's detainment here would mean unnecessary hardship when tis Court is able to resolve the question now. Courts have waived exhaustion under similar circumstances. *Lopez-Campos,* 2025 WL 2496379, at *5 ("Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition."); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sep. 9, 2025) ("the Court requires administrative exhaustion, Pizarro Reyes faces not only more, potentially unnecessary, months in prison, but also harm to his ability to mount a successful case against his removal. As a result, the Court will waive administrative exhaustion."); *Simpiao v. Hyde*, 2025 WL 2607924, at *6-7 (holding that because "the policy concerns animating the common-law exhaustion" are absent, "waiver of exhaustion is warranted"). Therefore, this Court should similarly in line with its fellow trial courts waive the exhaustion requirement for Petitioner and reach the merits of his Petition.

E. Sections 1252(g) and 1252(b)(9) do not strip this Court of jurisdiction over a habeas challenge to unlawful civil detention.

i. Section 1252(g) is narrowly targeted and does not bar review of detention claims.

Section 1252(g) "refer[s] to just three specific actions"—the decision or action "to commence proceedings, adjudicate cases, or execute removal orders"—and must not be read to

"sweep in any claim that can technically be said to 'arise from'" those actions. *Reno v. Am.-Arab Anti-Discrimination Comm. (AADC)*, 525 U.S. 471, 482–83 (1999). The Fifth Circuit has adhered to that narrow construction, holding that § 1252(g) does not bar federal-court review of immigration detention because a detention order, "while intimately related to efforts to deport, is not itself a decision to 'execute removal orders.'" *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000). Consistent with *Cardoso*, Fifth Circuit decisions emphasize that § 1252(g) protects charging/adjudicatory discretion—not all agency conduct tangential to removal. *See Duarte v. Mayorkas*, 27 F.4th 1044, 1055 (5th Cir. 2022) (explaining § 1252(g) preserves discretion "to decide whether and when to prosecute or adjudicate removal proceedings") (quotation marks omitted). Other courts agree that § 1252(g) does not insulate unlawful detention from judicial review. See, e.g., *Kong v. United States*, 62 F.4th 608, 617–18 (1st Cir. 2023).

Because Petitioner challenges ongoing civil custody—not DHS's decision to commence or adjudicate proceedings nor the execution of a removal order—§ 1252(g) does not apply. *See AADC*, 525 U.S. at 482–83; *Cardoso*, 216 F.3d at 516–17.

ii. Sections 1252(b)(9) and 1252(a)(5) do not "zipper" this habeas challenge out of district court.

Section 1252(b)(9) is a channeling ("zipper") provision; it is not a claim-bar that renders all detention claims unreviewable in district court. The Supreme Court has rejected the expansive reading the Government urges. *See Jennings v. Rodriguez*, 583 U.S. 281, 293–95 & n.3 (2018) (plurality opinion) (warning that an expansive § 1252(b)(9) would make "claims of prolonged detention effectively unreviewable"). The Court later summarized *Jennings* this way: § 1252(b)(9) "does not present a jurisdictional bar" where plaintiffs are not seeking review of an order of removal, the decision to seek removal, or the process of determining removability. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). The Fifth Circuit has

followed suit. *Duarte* confirms that § 1252(a)(5) and (b)(9) do not bar district-court review where the suit does not attack the validity of a removal order or the process by which removability will be determined. 27 F.4th at 1056. And more recently, in addressing challenges to DACA, the Fifth Circuit reiterated *Regents'* formulation verbatim: § 1252(b)(9) "does not present a jurisdictional bar" where litigants are not asking for review of a removal order, the decision to seek removal, or the removability process. *Texas v. United States*, 126 F.4th 392, 417 (5th Cir. 2025). District courts within and beyond the Fifth Circuit likewise permit habeas challenges to immigration detention notwithstanding § 1252(b)(9). *See, e.g., Ayobi v. Castro*, No. 5:19-cv-1311-OLG, 2020 WL 13411861, at *3 (W.D. Tex. Feb. 25, 2020); *Ozturk v. Hyde*, 136 F.4th 382, 399 (2d Cir. 2025). Section 1252(a)(5) adds nothing here. It makes a petition for review in the court of appeals the "sole and exclusive means" to review "an order of removal." 8 U.S.C. § 1252(a)(5). Petitioner does not seek review of any removal order (there is none), nor does he seek review of DHS's decision to seek removal or the process by which removability will be decided. *Regents*, 591 U.S. at 12–13, 19.

F. The Respondents mischaracterizes Petitioner's claim; he challenges the legal authority for detention, not a discretionary decision "to detain him in the first place."

The Respondent's assertion that Petitioner "challenges the decision to detain him in the first place," and that § 1252(b)(9) therefore bars review, misreads both the petition and the controlling case law. Dkt. 10 at 15. Petitioner challenges the statutory basis of his custody—i.e., whether § 1225 or § 1226 governs his detention and whether detention without a bond hearing is lawful—not the prosecution choices "to commence" or "adjudicate" removal. *Jennings* expressly distinguished between challenges to detention authority and challenges to removal actions, cautioning that an expansive § 1252(b)(9) reading would make detention claims "effectively

unreviewable." 583 U.S. at 293–95 & n.3. *Regents* then crystallized the rule: § 1252(b)(9) is not a bar absent a request to review a removal order, the decision to seek removal, or the removability process. 591 U.S. at 19. The Fifth Circuit has adopted that reading. *See Texas*, 126 F.4th at 417; *Duarte*, 27 F.4th at 1056. That is precisely how the court analyzed materially similar claims in *Santiago v. Bondi*, No. 3:25-cv-00361-KC (W.D. Tex.). *Santiago* held that § 1252(g) does not bar detention challenges because detention is not one of the statute's three discrete actions, and that § 1252(b)(9)/(a)(5) do not channel detention claims to the courts of appeals because the petitioner was not seeking review of an order of removal, the decision to seek removal, or the removability process. *See also Lopez Santos v. Noem*, No. 25-cv-1193, 2025 WL 2642278, at *2–3 (W.D. La. Sept. 11, 2025).

G. These jurisdictional conclusions dovetail with—and reinforce—prudential-exhaustion futility.

Because this case turns on a pure question of law (which statute governs Petitioner's custody), agency fact-finding is unnecessary, and the BIA cannot resolve the constitutional issues raised. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) (courts may not defer to an agency's view of law merely because a statute is ambiguous). And, as Petitioner has shown, pursuing a BIA bond appeal is futile in light of *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 214, 221 (B.I.A. 2025)—a point that only underscores why Congress did not channel these detention-authority questions to the BIA or courts of appeals in the first instance. *See, e.g.*, *Lopez-Campos v. Raycraft*, No. 23-cv-XXXXX, 2025 WL 2496379, at *4–5 (E.D. Mich. Aug. 29, 2025). In short, Petitioner does not ask this Court to review a removal order, to police DHS's decision to commence or adjudicate removal, or to second-guess the removal process; rather, consistent with *Jennings*, *Regents*, and Fifth Circuit precedent, he seeks habeas review of the lawfulness of his present civil detention, and §§ 1252(g), 1252(b)(9), and 1252(a)(5) do not deprive this Court of

jurisdiction to decide that question.

H. Constitutional Claims: Due Process

Respondents urge this Court to reject his constitutional claims. Dkt. 10 at 18. Because the TRO is temporary relief that preserves the status quo, it does not resolve—or moot—the habeas merits. See *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981) (preliminary relief is not a final merits adjudication); cf. *Friends of the Earth, Inc. v. Laidlaw Env't Servs.*, 528 U.S. 167, 189–90 (2000) (voluntary cessation does not moot a case). Therefore his constitutional claim remains necessary to support final habeas relief (declaration that § 1226 governs and that due process requires an individualized hearing with the Government's clear-and-convincing burden, or release if it cannot meet that burden), and to guide any continued custody.

The Fifth Amendment protects freedom from physical restraint at "the heart of the liberty" it guarantees. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In immigration, civil detention is constitutionally justified only to prevent flight or protect the community—and only with adequate procedures. See *id.*; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Applying *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976): (1) Petitioner's private interest is weighty—continued confinement separates him from his three U.S.-citizen children, burdens his health care (Type 2 diabetes/hyperlipidemia), and impedes his defense by limiting access to counsel, witnesses, and evidence; (2) the risk of erroneous deprivation is high where no individualized custody determination occurred, and the value of a prompt bond hearing with an appropriate burden is great; and (3) the Government's interests are fully served by routine, minimally burdensome custody hearings that require it to prove danger or flight risk, rather than by detention without such process. See *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

Consistent with these principles, this Court in the instant case has already ordered precisely the constitutionally adequate safeguard: a prompt bond hearing at which the Government bears the clear-and-convincing burden to justify continued detention, with release if it cannot do so. Dkt. 14; cf. *Morrissey v. Brewer*, 408 U.S. 471, 480–86 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973); *Young v. Harper*, 520 U.S. 143, 148 (1997). The habeas merits should now reflect and confirm that baseline: under § 1226(a) (and independent of the statutory holding), due process requires an individualized hearing with the Government's clear-and-convincing showing of danger or flight risk—and if that showing is not made, continued detention is unconstitutional and Petitioner must be released under reasonable conditions.

I. Injunctive Relief to Prevent DHS Nullification Under 8 U.S.C. § 1225(b) and 8 C.F.R. § 1003.19(i)

Recent events confirm DHS will invoke § 1003.19(i) to nullify an IJ's bond order. The Court previously denied this relief as speculative. It is not. In *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex.), the court granted habeas on October 8, 2025; after the IJ granted a $6,000 bond on October 15, 2025, DHS invoked an "emergency" discretionary stay under 8 C.F.R. § 1003.19(i)(1) that same day—classic run-out-the-clock tactics to keep a habeas petitioner detained despite an IJ's release order. Exh. 2. Likewise, in *Alvarez Martinez v. Secretary of DHS*, No. 5:25-cv-01007-JKP (W.D. Tex.), after the IJ set a $3,000 bond on July 15, 2025, DHS filed Form EOIR-43 and triggered the automatic stay under § 1003.19(i)(2), preventing release pending appeal. *See* Exh 3. These are not hypotheticals; they are recent, local examples showing exactly what DHS does when an IJ grants bond.

The mechanics and timing create a concrete, imminent threat. Under § 1003.19(i)(2), DHS can file a one-page EOIR-43 within one business day of an IJ's bond order to impose an automatic, administratively imposed stay through the BIA appeal. Separately, § 1003.19(i)(1) allows DHS to

seek a discretionary stay from the BIA "on an emergency basis" at any time. Either route converts an IJ's neutral release determination into continued detention—precisely the harm this Court sought to avert by ordering a bond hearing.

The All-Writs Act authorizes relief to protect the Court's remedy. The Court may "issue all writs necessary or appropriate in aid of [its] jurisdiction." 28 U.S.C. § 1651(a). *See United States v. New York Tel. Co.*, 434 U.S. 159, 172–74 (1977) (courts may issue orders to prevent frustration of their decrees); *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1100–01 (11th Cir. 2004). Allowing DHS to deploy § 1003.19(i) to block release would nullify the effectiveness of the Court-ordered bond process and frustrate the Court's remedial authority. A narrow, targeted injunction (or, at minimum, a notice-and-leave requirement) is therefore warranted.

Irreparable harm, equities, and the public interest favor relief. Continued detention triggered solely by an administrative stay is irreparable harm: loss of liberty, family separation, and impaired ability to litigate, with no adequate damages remedy. The balance of equities favors preserving the efficacy of the Court's order, while the public interest is served when executive action does not sidestep judicial remedies or constitutional process. Recent district-court orders addressing § 1003.19(i)(2) recognize these due-process concerns and the need to ensure meaningful bond determinations are not overridden by automatic stays.

Tailored relief requested. Petitioner respectfully seeks an order that: (1) enjoins Respondents from invoking 8 C.F.R. § 1003.19(i)(2) (the automatic stay) to block execution of any IJ bond order; and (2) requires Respondents to provide 48 hours' advance notice to Petitioner and the Court and obtain leave of Court before seeking any discretionary stay under 8 C.F.R. § 1003.19(i)(1) that would prevent Petitioner's release. This relief does not bar DHS from appealing or the BIA from reviewing custody; it simply prevents the government from using § 1225(b) and

§ 1003.19(i) as run-out-the-clock tools to nullify the Court's remedy and keep Petitioner detained despite an IJ's bond grant

IV. CONCLUSION

"[A] complaint 'does not need detailed factual allegations,' but must provide the plaintiff's grounds for entitlement to relief—including factual allegations that when assumed to be true 'raise a right to relief above the speculative level.' " *Cuvillier v. Taylor*, 503 F.3d 397, 401 (5th Cir. 2007) (quoting *Twombly*, 550 U.S. at 555).

Here, Petitioner has alleged viable causes of action, and he has sought injunctive relief from this Court, under the laws and the Constitution. The writ of habeas corpus should be granted. His detention is illegal. The writ is reduced to a sham if the trial courts do not act within a reasonable time. *Rhueark v. Wade*, 540 F. 2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978); *Fay v. Noia*, 372 U.S. 391, 400 (1963) ("The writ must be construed to afford "a swift and imperative remedy in all cases of illegal restraint or confinement.")

Respectfully submitted on this 16th day of October, 2025.

/s/ Maria Nereida Jaimes

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing RESPONSE OF PETITIONER TO THE RESPONDENTS' ANSWER TO THE PETITION FOR WRIT OF HABEAS CORPUS in the case of *Hernandez Ramiro v. Pamela Bondi*, et al., Civil Action 5:25 01207-XR, was sent to Fidel Esparza, III, Assistant United States Attorney, Western District of Texas, 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216 through the District Clerk's electronic case filling system on thus the 16th day of October, 2025.

Dated this 16th day of October, 2025

s/ Maria Nereida Jaimes

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