

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

FELIX DAVID VASQUEZ GUZMAN,
Petitioner,

v.

KRISTI NOEM,
Secretary of Homeland Security, et al.,
Respondents.

Civil No. 1:25-CV-00209-H

**PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO WRIT OF
HABEAS CORPUS AND REQUEST FOR INJUNCTIVE RELIEF**

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DISCLOSURE ON THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

Pursuant to Local Rule 7.2(f), I hereby disclose that I have utilized generative artificial intelligence in the preparation of this document, but that I have independently cross-checked and verified the accuracy of all legal authorities, citations, facts, and arguments contained herein. No unpublished, non-existent, or unverifiable authorities were generated or relied upon.

/s/ John M. Bray
John M. Bray
Attorney for Petitioner

DATE: November 13, 2025.

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TO THE HONORABLE JUDGE HENDRIX:

Petitioner Felix David Vasquez Guzman (“Mr. Vasquez”) respectfully submits this brief in reply to Respondents’ Response in Opposition, filed October 29, 2025 (ECF No. 6), to the writ of habeas corpus and request for a declaratory and injunctive relief, filed with the Court on October 10, 2025 (ECF No. 1), and as specifically directed by the Court in its Order, dated October 10, 2025 (ECF No. 3).

I. INTRODUCTION

Respondents’ opposition confirms the need for immediate judicial intervention and confirms the central defect in this case: the Government seeks to detain a long-time “§ 240 respondent”—one who has complied with every requirement of his proceedings for more than four years, who has been granted Temporary Protected Status, and whose immigration hearing was recently scheduled on the immigration court’s docket—under a detention statute that applies *only* to individuals seeking admission at the border. By recasting Mr. Vasquez, retroactively and without explanation, as an “applicant for admission” subject to 8 U.S.C. § 1225(b)(2), Respondents attempt to bypass the procedural safeguards Congress built into 8 U.S.C. § 1226, in a boldfaced attempt to strip the immigration judges of bond jurisdiction, and to insulate their unlawful detention decision from any neutral review. *See* ECF No. 6 at 6–9.

That position cannot be squared with the statutory structure that governs removal proceedings, with the Government’s own litigation posture over the last four years, or with the factual record reflected in DHS’s Appendix. DHS initiated ordinary § 240 removal proceedings against Mr. Vasquez in December 2021 by serving a Notice to Appear, although it later issued a new NTA following DHS’s apprehension of Mr. Vasquez in October 2025. *See* Gov’t App’x, ECF No. 7 at 1–4. EOIR has set hearings and received

filings in his immigration case. Following his detention by Respondents, EOIR scheduled Mr. Vasquez for a hearing before IJ Alexander Lee on November 4, 2025, which was later reset to December 2, 2025. *See* Gov't App'x, ECF No. 7 at 8–9. Indeed, USCIS, itself one of DHS's agencies, granted Mr. Vasquez Temporary Protected Status ("TPS") on July 31, 2024, less than a year and a half before ICE's apprehension of him. *See* ECF No. 1-3 at 8-9. Indeed, Mr. Vasquez even has a work permit, also called an Employment Authorization Document, based on his pending application for asylum, and this work permit does not expire until October 2028, so he will legally be allowed to work in the event of his release from ICE custody. *See* ECF No. 1-3 at 7. In every practical and legal sense, DHS has treated Mr. Vasquez as a § 240 respondent—with the rights, obligations, and procedural posture accompanying that status.

But everything changed on or about October 1, 2025, when Mr. Vasquez appeared for a routine 9:00 a.m. ICE check-in in Dallas—a check-in he had no reason to fear and every reason to expect would proceed just as it had for the past four years. Instead, without warning or explanation, ICE arrested him on the spot and transferred him to Bluebonnet Detention Center the next day. *See* Pet's App'x at 83 (I-830E). Only after this abrupt detention did DHS assert, for the first time in his nearly four-year-long immigration case, that Mr. Vasquez is in essentially the same position as an "arriving alien" whose custody is governed not by § 1226 but by § 1225(b)(2), thereby placing him in mandatory detention with no bond jurisdiction and no neutral forum for review. *See* ECF No. 6 at 5 (arguing that the term "applicant for admission" includes two categories: arriving aliens and those present without admission); *see id.* at 9 (arguing that Mr. Vasquez, as an applicant for admission, has "no grounds to complain" that he is "not entitled to a bond hearing").

The Government's theory fails for two independent reasons. First, *Lopez-Arevelo v. Ripa* is directly on point and persuasive, as Magistrate Judge David Horan observed in the Dallas Division of this Court. See Pet's App'x, FCR Report in *Aparicio-Rodriguez v. Noem*, at 86-101 (stating that the magistrate "agrees with the court in *Lopez-Arevelo* and other courts in the Fifth Circuit and finds that *Thuraissigiam* is distinguishable" in context of procedural due process argument). *Lopez-Arevelo* rejected the same maneuver DHS attempts here: reclassifying a long-standing § 240 respondent as an applicant for admission to deny access to § 1226 custody hearings. Allowing DHS to toggle between statutory regimes at will would collapse the INA's careful distinction between border-processing statutes and interior-removal statutes, undermining Congress's design and authorizing precisely the kind of unchecked detention the Supreme Court has consistently been wary of. See *Jennings v. Rodriguez*, 583 U.S. 281, 289–90 (2018).

Second, DHS's position contradicts its own record. A noncitizen cannot simultaneously be (1) in active § 240 proceedings for four years with a merits hearing imminent, charged as removable under § 212(a)(6)(A)(i), and granted TPS, yet also (2) an "arriving alien" subject to § 1225(b)(2). The Government cannot retroactively convert interior-arrest custody during long-running removal litigation into border-processing detention simply because it prefers the harsher statutory framework.

In sum, Respondents' opposition does not undermine Petitioner's entitlement to relief—it reinforces it. DHS's abrupt and unexplained shift to § 1225(b)(2) detention is legally unsustainable, factually inconsistent with the record, and constitutionally fraught. The Court should reject that position and order the Government to provide Mr. Vasquez

the custody process Congress prescribed: a bond hearing under § 1226(a) before a neutral arbiter, without further delay.

II. FACTUAL BACKGROUND

The material facts in this case are straightforward and largely uncontested. The Government's own appendix confirms that DHS served a Notice to Appear ("NTA") on Mr. Vasquez in December 2021 but did not actually initiate § 240 removal proceedings against him even after apprehending him in October 2021 four years later. The NTA that DHS served on him alleges inadmissibility under INA § 212(a)(6)(A)(i), despite his receipt of TPS status in July 2024. *See* ECF No. 1-3, 8–9 (TPS approval notice). Yet, the NTA did not characterize Mr. Vasquez as an "arriving alien," nor did it invoke the border-processing scheme of § 1225(b). Instead, it placed him squarely into the statutory framework of § 240 proceedings, which governs the vast majority of interior removability cases. As of the filing of the habeas petition, EOIR had not yet even docketed his case or issued hearing notices. *See* ECF No. 1-5 (EOIR Case Information System).

Petitioner Felix David Vasquez Guzman is a 35-year-old citizen of Venezuela who has lived in the United States since December 2021, when he entered the country, was processed by immigration authorities, and released under supervision. *See* ECF No. 1-8 (Affidavit of Marisol Peña Marquez). Since that time, Petitioner has lived continuously in the Dallas–Fort Worth area with his wife, Marisol Peña Márquez, who is also in the United States while exercising her right to seek asylum after having fled 

 *See* ECF No. 1-8 (Affidavit of Marisol Peña Marquez). During more than three years in North Texas, Petitioner has complied with every requirement imposed by DHS. He has no criminal history, no record of noncompliance, and no history of absconding.

Shortly after arriving in the United States, Petitioner and his wife filed a joint affirmative asylum application with U.S. Citizenship and Immigration Services (“USCIS”). That application remains pending today. Petitioner is also a registrant under the TPS program for Venezuelan nationals. For years, Petitioner has lived, worked, and reported as required, building a stable life in the community and following the instructions of immigration officials.

On October 1, 2025, Petitioner appeared—promptly and voluntarily—at the Dallas ICE Field Office for a routine check-in. He had been instructed at his prior appointment in July to return in October. Petitioner had no reason to anticipate any difficulty: he had complied with all prior reporting requirements, had committed no offense, and had received no indication that his status had changed or that custody was contemplated.

Upon arrival, however, Petitioner was taken into custody without advance notice, without explanation, and without any allegation of conduct triggering enforcement action. Petitioner was told he would be placed into removal proceedings and was given a paper stating he should appear before an immigration judge on October 21, 2025. Yet for more than a week after the arrest, DHS did not file a Notice to Appear (“NTA”) with the immigration court. The EOIR Case Information System, checked on October 9, 2025, showed no pending case for Petitioner’s A-Number. As a result, Petitioner had no ability to seek review from an immigration judge and remained detained without any formal charges pending before EOIR and without any statutory mechanism for custody redetermination.

On October 3, 2025, DHS transferred Petitioner from Dallas to the Bluebonnet Detention Center in Anson, Texas, a facility several hours away. The transfer occurred

despite his clean criminal record, earlier receipt of TPS status, consistent compliance, and deep community ties in the district. The ICE Detainee Locator confirmed Petitioner's presence at Bluebonnet as of October 8, 2025.

Three days later, on October 10, 2025, this Court issued its Order to Show Cause, observing that Petitioner had alleged immediate harm and directing the Government to explain why the writ should not be granted. The Court also set Petitioner's reply deadline for November 13, 2025. Petitioner timely filed his Verified Petition, supported by sworn declarations and documentary evidence confirming the circumstances of his arrest and continued detention.

Petitioner remains detained today. He has not received an individualized custody determination. He has not been afforded an opportunity to request bond before an immigration judge. And for a significant period of his detention, DHS had not even initiated the formal process Congress prescribed for placing a noncitizen into removal proceedings.

Petitioner's circumstances are therefore straightforward: he is a long-term resident of this district with no criminal history, a record of complete compliance, a pending asylum application, and deep family connections in North Texas—who was taken into custody solely because he appeared as instructed for a routine ICE check-in. His continued detention has not been supported by a filed charging document, nor has he been provided the procedural mechanisms Congress made available to individuals in his position.

Taken together, these facts paint a clear picture: DHS initiated and maintained § 240 proceedings for four years, granted TPS, scheduled a merits hearing, and permitted Mr. Vasquez to live and work in the community—only to arrest him without warning and

reclassify him under an entirely different statutory scheme on the eve of his individual hearing. *See* ECF No. 1-3 (Documentation of Petitioner’s Immigration History); *see* ECF No. 1-8 (Affidavit of Marisol Peña Marquez). Nothing in the INA authorizes this kind of retroactive recharacterization. And nothing in DHS’s own filings explains, let alone justifies, this abrupt departure from four years of consistent statutory treatment.

III. ARGUMENT

A. Exhaustion Is Prudential and Excused Because, Under the Government’s Own Theory, No Administrative Forum Has Authority to Grant Relief.

The Government argues that Mr. Vasquez must first exhaust administrative remedies by seeking a bond hearing from an Immigration Judge before turning to federal court. *See* Gov’t Opp., ECF No. 6 at 2–3. But that argument collapses under its own weight.

In the same brief, the Government asserts that Mr. Vasquez’s detention is governed exclusively by 8 U.S.C. § 1225(b)(2) because he is an “applicant for admission,” and that, as a result, immigration judges categorically lack jurisdiction to conduct a bond hearing. *See* ECF No. 6 at 6–9. Yet in the same breath, the Government contends that he must first seek administrative relief through an Immigration Judge before turning to federal court for habeas relief. *Id.* at 3 (citing *Lee v. Gonzalez*, 410 F.3d 778, 786 (5th Cir. 2005)). Both cannot be true. And if the Government’s jurisdictional theory is taken at face value—as the Government urges—then exhaustion is not merely unnecessary but *impossible*.

Exhaustion of administrative remedies in habeas or immigration detention cases is not jurisdictional; rather, it is a prudential doctrine that courts apply flexibly, and “[u]nder the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.” *Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 U.S. Dist. LEXIS 206527, at *12 (S.D. Tex. 2025) (quoting *Lopez-Arevelo v. Ripa*, No. EP-25-CV-

337, 2025 WL 2691828, at *6 (W.D. Tex. Sept. 22, 2025). Federal courts routinely waive exhaustion where resort to administrative procedures would be futile or inadequate to prevent irreparable harm, including in the context of habeas. *Id.*

Here, futility is not speculative—it is *conceded*. DHS maintains that because Mr. Vasquez is now labeled an “applicant for admission,” he cannot seek a bond before an immigration judge, essentially due to a lack of bond jurisdiction that renders him mandatorily detained. *See* Gov’t Opp., ECF No. 6 at 4 (“Petitioner is not entitled to any relief, under any theory, because he is an applicant for admission who therefore may [be held] without any requirement for a bond hearing.”). Thus, according to DHS’s own position, the agency forum to which Mr. Vasquez is supposedly required to apply cannot grant the relief sought. Requiring exhaustion in such circumstances would be little more than a purposeless formality. *Cf. McCarthy v. Madigan*, 503 U.S. 140, 149 (1992).

The prudential nature of exhaustion also permits courts to bypass it where a petitioner raises a substantial constitutional claim or faces irreparable harm from ongoing detention. *Cf. Garza v. Lappin*, 253 F.3d 918, 923 (7th Cir. 2001) (in § 2255 case, noting that exhaustion is unnecessary where delay would cause irreparable injury). Mr. Vasquez’s detention is already prolonged, and DHS’s own conflicting positions make clear that no administrative mechanism presently exists to adjudicate his custody. The Fifth Circuit has excused exhaustion in precisely such circumstances, recognizing that a detainee is not required to pursue a process that offers no potential for relief. *See Dilworth v. Johnson*, 215 F.3d 497, 501 n.3 (5th Cir. 2000) (“[E]xhaustion is not necessary where resort to state remedies would be futile, because the necessary delay before entrance to a federal forum

which would be required is not justified where the state court's attitude towards a petitioner's claims is a foregone conclusion.”)).

Furthermore, even if the Immigration Judge theoretically had jurisdiction (which the Government seems to deny), the exhaustion requirement would still not bar review because Mr. Vasquez challenges the legal authority under which DHS purports to detain him—not merely the discretionary outcome of a bond proceeding. Courts consistently hold that statutory and constitutional challenges to the source of detention authority fall outside any exhaustion requirement. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (federal courts retain jurisdiction to determine “whether detention is statutorily authorized”).

The urgency of the case independently counsels against exhaustion. DHS arrested and detained Mr. Vasquez on October 1, 2025—a month and a half ago—and transferred him to Bluebonnet the next day. *See* Pet’s App’x, at 83 (Form I-830E). Detention at Bluebonnet materially impairs his ability to prepare for his removal proceedings, which are now set for a preliminary “Master Calendar” hearing on December 2, 2025, before IJ Alexander Lee. *See* Pet’s App’x, at 84-85 (hearing notice). Forcing him to pursue a futile administrative motion, which DHS claims the IJ lacks jurisdiction to grant, would impose further delay on a record that already reflects imminent, irreparable harm. Courts regularly waive prudential exhaustion such as where exhaustion would result in “the deprivation of a constitutional right” or where the administrative process would be too slow to prevent irreparable injury. *See generally Walters v. Reno*, 145 F.3d 1032, 1048 (9th Cir. 1998) (assessing prudential requirements in context of request for classwide injunction).

Finally, the Government's argument ignores the very nature of Mr. Vasquez's claim. A habeas challenge to the legality of detention is precisely the kind of claim federal courts are empowered to review without prior administrative steps, especially where the agency disclaims jurisdiction over the subject matter. The Supreme Court has emphasized that habeas is a "swift and imperative" judicial remedy for unlawful detention or restraint. *Fay v. Noia*, 372 U.S. 391, 400 (1963). Requiring exhaustion here—where no administrative decisionmaker exists—would invert that principle completely.

In short, the Government cannot simultaneously (1) deny that immigration judges have the power to release Mr. Vasquez (*i.e.*, that he is subject to "mandatory detention") and (2) claim that he must first seek that nonexistent relief. The exhaustion doctrine was never meant to be weaponized as a trapdoor to avoid judicial review. Because the Government's own position makes administrative relief unavailable, and because continued detention without review inflicts irreparable harm, exhaustion is excused and this Court properly exercises jurisdiction over Mr. Vasquez's habeas claim and request for declaratory and injunctive relief.

B. Detention of a Noncitizen in § 240 Proceedings Is Governed by 8 U.S.C. § 1226, Not § 1225(b)(2).

Respondents' core argument—that Mr. Vasquez is detained under § 1225(b)(2) because he is an "applicant for admission"—collapses once the relevant statutory framework is accurately applied. *See* Gov't Opp., ECF No. 6 at 6-9. Congress constructed two distinct detention regimes, each tied to a specific procedural posture. Which statute governs is not a matter of agency preference or post hoc recharacterization, but of statutory command. And the statute that governs the detention of a long-term § 240 respondent like Mr. Vasquez is 8 U.S.C. § 1226, not § 1225(b)(2). Respondents' contention to the contrary

ignores the text, structure, and purpose of the Immigration and Nationality Act (“INA”), as well as decades of consistent interpretation distinguishing the two detention regimes.

1. Congress reserved § 1225(b)(2) for initial processing during inspection at the border—not for respondents in ongoing § 240 removal proceedings.

Congress drew a bright line between the detention of “applicants for admission” at or near the border, governed by § 1225(b), and the detention of noncitizens already present in the United States and placed in removal proceedings, governed by § 1226. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–90 (2018) (observed that § 1225(b) applies to aliens seeking admission into the United States, while § 1226 governs detention of aliens already in the country pending their removal proceedings). The distinction is not a matter of discretion; rather, it reflects fundamentally different statutory purposes.

Section 1225(b)(2) applies to “applicants for admission” who are encountered at or near the border, or in the context of initial inspection and processing. As the Supreme Court has repeatedly emphasized, § 1225(b) governs the inspection of aliens seeking admission and delineates what DHS must do at the threshold of entry. *See Jennings v. Rodriguez*, 583 U.S. 281, 287–89 (2018) (held § 1225(b)(1)&(2) authorized brief detention of noncitizens immediately upon entering the country).

By contrast, § 1226(a) provides discretionary detention authority pending a decision on whether the alien is to be removed, expressly encompassing respondents in § 240 proceedings. *See Jennings*, 583 U.S. at 288 (“Section 1226 generally governs the process of arresting and detaining” aliens who were [inadmissible at the time of entry] pending their removal.”). Once DHS files a Notice to Appear under § 239 and initiates § 240 removal proceedings, the detention authority shifts to § 1226—the statute Congress

expressly designed to govern custody during ongoing removal litigation. *Jennings* draws this line sharply:

- § 1225 regulates *pre-admission* processing;
- § 1226 governs detention “pending a decision on whether the alien is to be removed,” i.e., during § 240 proceedings.

See Jennings, 583 U.S. at 288-89.

Here, there is no dispute DHS served Mr. Vasquez with a Notice to Appear on December 29, 2021, charging him under § 212(a)(6)(A)(i), though DHS decided to re-issue the NTA on October 2, 2025, when it apprehended him. *See Gov’t App’x*, ECF No. 8 at 1–4 (observe new NTA). Nor is there any dispute that EOIR docketed the case, set hearings, consolidated it with his family’s proceedings, and most recently scheduled a hearing on November 14, 2025. *See Gov’t App’x*, ECF No. 8 at 5–7 (hearing notice); *see Pet’s App’x* (observe new hearing date). These are the hallmarks of § 240 proceedings. Nothing in the record suggests that DHS ever withdrew the NTA, terminated proceedings, or reclassified him under any expedited or border-processing provision.

For more than four years, the Government unequivocally—and correctly—treated him as a § 240 respondent, not as an alien undergoing inspection at the border. Respondents cannot now invoke a statute that presupposes an uncompleted inspection process simply because they prefer the detention consequences of § 1225(b)(2).

2. *Matter of M-S-* confirms that § 1226 governs custody once DHS initiates § 240 proceedings.

Additionally, the Attorney General’s decision in *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019), is directly on point and forecloses DHS’s argument. *Matter of M-S-* holds that once DHS has placed a noncitizen into § 240 removal proceedings—even if the person

initially arrived at the border—the agency’s detention authority is governed by § 1226(a), not § 1225(b). *See id.* at 510–12.

Matter of M-S- makes clear that the initiation of § 240 proceedings is the statutory pivot point:

“Once DHS chooses to place an alien into full removal proceedings under section 240, detention is governed by section 236 [§ 1226].” *Id.* at 510.

This principle applies with overwhelming force here. DHS did not merely place Mr. Vasquez into § 240 proceedings—although it withheld the filing of the NTA for over four years, eventually vested jurisdiction with the immigration court by filing the NTA with the EOIR clerk; DHS granted Petitioner TPS during the interim; and EOIR scheduled Petitioner for a hearing in his case at EOIR. Respondents cannot now retroactively disavow § 240 and claim that the detention statute applying to border inspections governs instead.

Thus, once DHS initiated a § 240 case against Mr. Vasquez by filing and serving the NTA, the detention authority shifted to § 1226. *See Matter of M-S-*, 27 I. & N. Dec. 509, 510 (BIA 2019) (when DHS initiates formal removal proceedings, noncitizen’s detention is under § 1226(a)). Once DHS exercised its prosecutorial discretion to place Mr. Vasquez in § 240 proceedings, it was bound by § 1226 for custody purposes. *See Matter of M-S-*, 27 I. & N. Dec. at 510; *Jennings*, 583 U.S. at 288–90.

3. The Government’s position would nullify the statutory distinction between § 1225 and § 1226 and allow DHS to evade judicial review.

Accepting Respondents’ argument would virtually erase the structure of the INA entirely. If DHS could recast any § 240 respondent as an “applicant for admission” subject to § 1225(b)(2), then practically no respondent in removal proceedings—no matter how

long they may have been in the United States—would be entitled to a bond hearing. DHS could simply wait until an opportune moment, arrest the individual, and announce that § 1225(b)(2) applies. Immigration Judges would be stripped of jurisdiction, habeas review would be hindered, and noncitizens would be locked into potentially indefinite detention until removal litigation concluded.

This is precisely the danger Judge Cardone, of the U.S. District Court for the Western District of Texas, flagged in a similar habeas case, which rejected DHS’s attempt to toggle between statutory regimes to deny access to bond hearings. *See Lopez-Arevelo v. Ripa*, EP-25-cv-337, 2025 WL 2691828, at *7 (W.D. Tex. Sep. 22, 2025). In *Lopez-Arevelo*, Judge Cardone warned that such a maneuver would allow DHS to collapse Congress’s carefully constructed framework and impose detention without neutral review. That concern applies with full force here.

4. § 1226 applies as a matter of law, entitling Mr. Vasquez to a bond hearing, despite DHS’s contradictory charging decision.

Section 1226(a) authorizes detention “pending a decision on whether the alien is to be removed from the United States.” That describes § 240 proceedings precisely. It also authorizes release on bond or conditional parole “as the Attorney General may prescribe.” That is the authority Immigration Judges exercise when holding bond hearings.

Under the governing statutory scheme, and under binding precedent, Mr. Vasquez is entitled to a prompt custody redetermination under § 1226(a) before a neutral adjudicator. DHS cannot deprive him of that process by retroactively reclassifying him into a statutory category that neither applies to his circumstances nor protects any legitimate governmental interest.

DHS seeks to achieve this retroactive reclassification of Mr. Vasquez by asserting that he is an “applicant for admission,” but that is factually incompatible with its own conduct:

- DHS charged him under § 212(a)(6)(A)(i)—a ground that presumes physical presence inside the United States, not someone encountered at the border.
- DHS placed him in § 240 proceedings, not expedited removal under § 235 or any other border-based processes applicable for those at the threshold of entry.
- DHS chose to maintain this posture for four years without formally commencing removal proceedings.
- DHS approved his application for Temporary Protected Status on July 31, 2024 (ECF No. 1-3 at 8-9), confirming his continuous presence and statutory eligibility.

These facts are not reconcilable with DHS’s claim that § 1225(b)(2)—a statute reserved for initial inspection of applicants for admission—now controls his custody.

5. The Government’s reliance on *Yajure Hurtado* and *Jennings* is misplaced.

The Government cites *Matter of Yajure Hurtado*, 28 I. & N. Dec. 389 (BIA 2024), for the proposition that DHS may treat noncitizen aliens as “applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer” subject to § 1225(b)(2). *See* Gov’t Opp., ECF No. 6 at 8. But *Yajure Hurtado* reflects a recent policy shift. As even Respondents concede, this departure from long-standing agency interpretation conflicts with how immigration agencies had always before interpreted this statute. *See* Gov’t Opp., ECF No. 6 at 7 n.1 (“Previously . . . § 1226(a) had been interpreted as an available detention authority for aliens who were present without admission and placed in § 1229a removal proceedings. *See, e.g., Matter of Cabrera-Fernandez*, 28 I&N

Dec. 747, 747–48 (BIA 2023).”). Moreover, *Yajure Hurtado* conflicts with both *Jennings* and *M-S-* by collapsing the statutory distinction between border inspection and domestic removal proceedings.

Nor does *Jennings* support the Government. *Jennings* held only that § 1225(b) does not imply a six-month time limit on detention; it did not address, let alone approve, DHS’s ability to shift an interior detainee between § 1225(b) and § 1226 regimes. *Jennings*, 583 U.S. at 313–14. The Court expressly remanded the constitutional question of prolonged detention without bond. *Id.* at 314. DHS’s reliance on *Jennings* to justify Mr. Vasquez’s indefinite, unreviewable detention therefore misses the mark.

6. Because DHS has chosen—and continues to pursue—§ 240 removal proceedings, § 1226 governs eligibility for bond.

The record establishes that Mr. Vasquez’s removal case is within the § 240 framework, especially now that DHS has actually followed the law and filed his NTA with the immigration court. *See* Gov’t App’x at 5–7 (hearing notice). Under that posture, detention authority lies squarely in § 1226, which provides for a bond hearing before an Immigration Judge. In such situations, “[m]any courts have . . . found it appropriate to give the Government a short window in which to complete the bond hearing, or else release the petitioner.” *Lopez-Arevelo*, 2025 WL 2691828, at *13 (citing *Valasquez Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729, at *9 (collecting cases)). The Court should therefore order Respondents to treat Mr. Vasquez’s custody as governed by § 1226, the Court should issue a declaration to this effect, and the Court should compel Respondents to afford him a prompt bond hearing—or release him if no such hearing occurs within seven days.

IV. CONCLUSION & PRAYER

For the reasons set forth above, Petitioner Felix David Vasquez Guzman respectfully submits that the Department of Homeland Security lacks statutory authority to detain him under 8 U.S.C. § 1225(b)(2) and that his continued confinement without a neutral custody determination violates both the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause.

The Government's own filings demonstrate that it has initiated—and continues to pursue—removal proceedings under § 240, thereby subjecting Petitioner's custody to 8 U.S.C. § 1226. Yet DHS has invoked § 235(b)(2) to deny him access to any bond hearing, trapping him in administrative limbo and depriving this Court of the orderly judicial review that Congress and the Constitution require.

Judicial intervention is thus warranted to prevent further unlawful detention and to preserve Mr. Vasquez's constitutional right to liberty pending resolution of his removal case. Accordingly, Petitioner respectfully prays that the Court grant Petitioner a hearing, and afterward, grant his writ of habeas corpus and the related relief as requested.

DATE: November 13, 2025.

Respectfully submitted,

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ATTORNEY FOR PETITIONER-PLAINTIFF

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this day, I served a true and correct copy of the above and foregoing PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO WRIT OF HABEAS CORPUS AND REQUEST FOR INJUNCTIVE RELIEF, as well as any and all attachments thereto, on Counsel for Respondents by serving the same via email to Assistant U.S. Attorney Ann Cuce-Haag via Ann.Haag@ice.dhs.gov and/or by filing the same using the Court's CM/ECF system.

/s/ John M. Bray
John M. Bray
Attorney for Petitioner

DATE: November 13, 2025.