IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN

Guillermina Amigon Cardona, Petitioner, v. Unknown, Warden, North Lake Processing Center; Marty C. Raybon, Director of Detroit Field Office, U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the U.S. Department of Homeland Security; and Pamela Bondi, Attorney General of the United States, in their official capacities, Respondents.	Case No. 1:25-cv- 1287 Hon. Jane Beckering U.S. District Court Judge Hon. Phillip Green U.S. Magistrate Judge

REPLY TO RESPONDENTS' RESPONSE TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully submits this Reply to Respondent's Response to the Petition for Writ of Habeas Corpus. Respondents' arguments, many of which have been repeatedly rejected by courts in the Sixth Circuit in recent habeas decisions, fail to rebut Petitioner's entitlement to relief.

Courts in this district have consistently held that (1) exhaustion of administrative remedies is not required in this case, (2) 8 U.S.C. § 1225(b)(2) does not apply to the Petitioner, and (3) this detention is in violation of the Due Process clause.

I. Exhaustion of Administrative Remedies is not Required in this Case.

Respondents contend that the Petitioner must exhaust administrative remedies, but this Court has repeatedly disagreed. "Where Congress specifically mandates, exhaustion is required." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). "But where Congress has not clearly required

exhaustion, sound judicial discretion governs." *Id.* Here, no statute or rule requires administrative exhaustion. Regardless, courts have read exhaustion requirements into a statute. These "exhaustion requirements not written into the text of the statute are prudential." *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) (citing *Perkovic v. I.N.S.*, 33 F.3d 615, 619 (6th Cir. 1994)). This Circuit has not decided whether courts should apply prudential exhaustion in cases of a noncitizen's habeas petition for unlawful mandatory detention. *Pizarro Reyes v. Raycraft,* No. 25-CV-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (citing *Hernandez v. U.S. Dep't of Homeland Sec.*, No. 1:25CV01621, 2025 WL 2444114, at *8 (N.D. Ohio Aug. 25, 2025). Sixth Circuit judges have historically been skeptical of exhaustion requirements not written in the text of a statute. See *Wallace v. Oakwood Healthcare, Inc.*, 954 F.3d 879, 900–01 (6th Cir. 2020).

Some Sixth Circuit courts have applied Ninth Circuit precedent in determining whether prudential exhaustion should apply in these cases. See e.g., *Lopez-Campos*, 2025 WL 2496379, at *4–5; *Villalta v. Greene,* No. 4:25-cv-01594, 2025 WL 2472886, at *2 (N.D. Ohio Aug. 5, 2025); *Hernandez*, 2025 WL 2444114, at *8–10. If the Ninth Circuit was applied, a court has the authority to waive exhaustion where (1) the legal question is "fit" for resolution and delay means hardship, or (2) when exhaustion would prove "futile." *Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000). In the present case, the legal question is fit for resolution, delaying the case further would cause undue hardship to the Petitioner and her family, and exhausting her remedies would be futile. The Board of Immigration Appeals found in *Matter of Yajure Hurtado* that noncitizens detained under 8 U.S.C. § 1225(b)(1), the section that led to the Petitioner's detention, are ineligible for bond. Any attempt to have a bond hearing would have, therefore, been futile.

The Court should follow Sixth Circuit precedent and reject reading an exhaustion requirement that is not in the text of the statute. This means that the Petitioner does not need to exhaust administrative remedies before filing this writ of habeas corpus and the Court should not deny the petition on this ground.

II. Petitioner's Detention Should be Analyzed under 8 U.S.C. § 1226(a), Rather than 8 U.S.C. § 1225(b)(2).

28 U.S.C. § 1225(b)(2)(A) states: "Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." By contrast, Section 1226(a) is the default provision governing discretionary detention of noncitizens "already in the United States." *Jennings*, 583 U.S. at 303.

The plain language of the statute draws the distinction between those seeking admission (1225(b)) and those already in the country (1226(a)), a distinction upheld by the Supreme Court in *Jennings*. This interpretation is also supported by historical practice and should be upheld by this Court: "Historically, noncitizens who resided in the United States, but who had previously entered without inspection, were not deemed 'arriving aliens' under § 1225(b), but were instead subject to § 1226(a)." *Maldonado v. Olson*, 2025 WL 2374411, at *11 (D. Minn. Aug. 15, 2025).

Petitioner has been in the United States for more than two years and is not seeking admission into the country. Rather, she is already present in the country, meaning this Court should apply Section 1226(a) to Petitioner. Non-citizens detained under 1226(a) are entitled to "receive bond hearings at the outset of detention." 8 U.S.C. § 1236.1(d)(1). As such, the Court should find that Petitioner is entitled to a 1226(a) bond hearing.

III. Petitioner's Continued Detention is in Violation of the Due Process Clause of the Constitution.

"The Fifth Amendment's Due Process Clause forbids the Government to deprive any person of liberty without due process of law." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). "Freedom from imprisonment–from government custody, detention, or other forms of physical restraint–lies at the heart of the liberty that Clause protects." *Id.* Specifically, "government detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections." *Id.* "[O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including alien, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.*

The test for what is due is found in *Mathews v. Eldridge,* 424 U.S. 319 (1976). The three factors to be balanced are (1) the private interest at stake, (2) the risk of erroneous deprivation and the value, if any, of additional procedural safeguards, and (3) the government's countervailing interests.

Regarding the first factor, Petitioner asserts "the most elemental of liberty interests–the interest in being free from physical detention by the government." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). For that reason, "civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979). Secondly, if the Petitioner is not granted a bond hearing under Section 1226(a), an Immigration Judge would be unable to determine whether the requirements are met for continued detention. Third, holding a bond hearing does not impede the government's interest in the execution of a removal order. A bond hearing would only impact his continued detention while the removal case proceeds.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the writ of habeas corpus and order Petitioner's release. Additionally, Petitioner requests this Court order an individualized bond hearing within a reasonable period of time with the proper burden on the Government. The Government has not demonstrated that continued detention is lawful or consistent with due process, and habeas relief is therefore warranted.

Respectfully Submitted,

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