UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
DETROIT, MICHIGAN

Carlos Martinez Ramirez,

Petitioner,

v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security; et.al.

Case No. 25-cv-13444

Hon. Judge: Thomas L. Lundington
Mag. Judge: Curtis Ivy, Jr.

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

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## I. Introduction

Petitioner is unlawfully detained under §1225(b)(2), though any detention authority, if applicable, lies under §1226(a). The Petitioner, Carlos Martinez Ramirez (Ramirez) has resided in the U.S. for over two decades and is currently pursuing permanent residency through a Cancellation of Removal application before the Immigration Court. His encounters with law enforcement for traffic violations and one retail theft, while not acceptable conduct, do not mean that his is subject to mandatory detention.

## II. Petitioner Is Detained Under § 1226(a), not § 1225(b)

Respondents rely on the July 8, 2025 DHS/DOJ Guidance and *Matter of Yajure-Hurtado,* asserting that § 1225(b)(2) applies to all "applicants for admission," including those already in the U.S. This interpretation contradicts the INA's text and structure. As the Supreme Court held in *Jennings v. Rodriguez*, 583 U.S. 221 (2018), § 1226(a) governs detention of noncitizens "already in the country" pending removal, while § 1225(b)(2) applies only to those "seeking to enter" at the border.

Respondents' shift departs from decades of applying § 1226(a) to interior

arrests, rendering § 1226—and the 2025 Laken Riley Act amendments (§ 1226(c)(1)(E))—superfluous. Section 1225(b)(2) targets noncitizens "seeking admission" at ports of entry; it does not apply to Petitioner, who is residing in the U.S. for 23 years and in ongoing removal proceedings. Filing for Cancellation of Removal is not a request for border inspection.

Respondents' argument that all "applicants for admission" are automatically "seeking admission" ignores statutory text and the surplusage canon. Applying their reading would eliminate § 1226(a) entirely and nullify congressional amendments, which must have a "real and substantial effect." See *Ross v. Blake*, 578 U.S. 632, 642 (2016). Statutory interpretation is a judicial, not agency, function. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024). Policy arguments that § 1226(a) grants interior detainees an advantage over border arrivals are irrelevant. Congress intended § 1226(a) to govern noncitizens apprehended within the U.S., preserving authority to arrest, detain, and release on bond those not lawfully present. H.R. Rep. No. 104-469, pt. 1, at 229 (1996). Cases addressing immediate post-entry detention, including *DHS v. Thuraissigiam,* 591 U.S. 103 (2020), do not apply. Petitioner has resided in the United States for over twenty years.

Extending § 1225(b)(2) to all noncitizens not formally admitted disregards statutory limits and Supreme Court guidance, while undermining Congress's distinction between noncitizens "seeking admission" and those "already in the

country." See *Bufkin v. Collins*, 604 U.S. 369, 386 (2025).

## III. Respondents' Interpretation Conflicts with Nearly Every Federal Decision to Address the Issue

Nearly every court reviewing the July 2025 DHS/DOJ Guidance has rejected it. ECF No. 1, PageID. 17 -18. These courts, including three decisions in this District, have held that 8 U.S.C. § 1226(a) governs detention of noncitizens already present in the U.S. See, *Yanier Capote-Hernandez v. Noem, et.al.* No. 25-cv- 13128 (E.D. Mich. Nov. 5, 2025) (This Court agrees with the majority viewpoint in finding that 1226(a), not § 1225(b)(2), applies to noncitizens in Hernandez Capote's situation.); *Contreras-Cervantes v. Raycraft*, No. 25-CV-13073 (E.D. Mich. Oct. 17, 2025)(§ 1226(a) is the appropriate framework for bond for noncitizens already in the country facing removal.); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025)(§1225(b)(2)(A) does not apply to noncitizens who have already entered unlawfully, only those in the process of arriving.) *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)(§1226(a), not § 1225(b)(2)(A), governs; petitioner entitled to bond redetermination.)

Respondents rely on minority cases, including *Chavez v. Noem* and *Pena v. Hyde,* which are unpersuasive. *Pena* addressed other issues and lacked analysis of the specific statutory framework at issue. See, *Romero v. Hyde*, 2025 WL 2403827

(D. Mass. Aug. 19, 2025); *Francisco T. v. Bondi*, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. Apr. 24, 2025). *Chavez v. Noem* conducted only a cursory statutory analysis and has been rejected by subsequent courts, including *Cordero Pelico v. Kaiser,* 3:25-cv-07286 (N.D. Cal. Oct. 3, 2025) and *Echevarria v. Bondi*, 2:25-cv-03252 (D. Ariz. Oct. 3, 2025). *Chavez* ignores the meaning of "seeking admission" in § 1225(b)(2)(A), the superfluity created by listing inadmissibility grounds in § 1226(c) and does not engage with decades of precedent or Congress's intent in IIRIRA.

## IV. Exhaustion of Administrative Remedies would be futile and exacerbate the harm in this case.

Exhaustion is not statutorily required and is wholly within the Court's prudential discretion. *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013); *Perkovic v. INS,* 33 F.3d 615, 619 (6th Cir. 1994). Courts consider: (1) whether an agency record is needed, (2) whether presenting the claim would be futile, and (3) whether the agency is likely to change its position. Here, no record is required because the issue is purely legal. Presenting a due process claim to the agency would be futile, as the agency is entrenched in its position that § 1225(b) applies. Bond appeals would likewise be ineffective given the agency's precedential decision. See, *Matter of Q.Li.,* 29 I&N Dec. 66, 2025 WL 1442892 (BIA 2025)

Courts in this district as well as others have recognized that administrative remedies may be waived where detention is ongoing and time sensitive. *Lopez-Campos*, 2025 WL 2496379, at *5. Or when exhaustion of administrative remedies would be futile. See, *Yanier Capote-Hernandez v. Noem*, et.al. No. 25-cv- 13128 (E.D. Mich. Nov. 5, 2025) Accordingly, waiver of exhaustion is appropriate in this case.

## V. Petitioner's Detention under 8 U.S.C. §1225 is unconstitutional as applied to him because it violates due process.

The Fifth Amendment's Due Process Clause prohibits depriving any person of liberty without due process, applying to noncitizens "whether lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). As the Supreme Court recognized, "freedom from imprisonment...lies at the heart of the liberty [the Due Process] Clause protects." *Id.* at 690. Ramirez's liberty is at stake. The Respondents have not demonstrated a significant interest in the continued detention of Ramirez who has resided in the U.S. for 23 years; has 5 U.S. citizen children- one of whom suffers from severe autism; has a stable home; had a thriving business; and an application for permanent residency pending in immigration court. Petitioner has been detained 122 days solely due to Respondents' arbitrary application of detention statutes, without regard to statutory text or interpretive principles.

Based on the evidence in this case and the pertinent statutes, detention without a bond hearing under §1225(b)(2) is unlawful. Ramirez is detained pursuant to §1226(a) and merits immediate release or in the alternative a bond hearing.

Respectfully submitted:

s/Caridad Pastor

Dated: November 6, 2025

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 2025, I filed the foregoing paper with the Clerk of the Court through the ECMF system which will notify all counsel of record.

/S/Caridad Pastor
Caridad Pastor
Attorney for the Petitioner