UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUAN JOSE SOTO-MEDINA.

Petitioner, Case No. 1:25-cv-1392

ROBERT LYNCH, Acting Field Director for U.S. Immigration and Customs Enforcement, Detroit Field Office, in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General.

Respondents.

PETITIONER'S REPLY IN SUPPORT OF HIS PETITION FOR HABEAS CORPUS

INTRODUCTION

This petition is one of hundreds filed across the country by detained noncitizens in the wake of the sudden decision by Respondents to re-interpret the plain text of the Immigration and Nationality Act, 8 U.S.C. §1101 *et seq.* ("INA") and reverse 30 years of agency practice. The government's novel interpretation denies bond hearings to thousands of detained noncitizens.

At issue is which section of the INA governs Petitioner's detention. The Respondents argue it's the mandatory detention provision at 8 U.S.C. 1225(b)(2)(A): "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 240 [8 USCS § 1229a]." 8 U.S.C. § 1225(b)(2). This position is based on their assertion that § 1225(b)(2)(A) covers every single noncitizen in the United States that was not lawfully admitted. This understanding simply cannot be squared with the plain text

and structure of the INA. It has also been rejected by nearly every district court judge in the country.

First, this Court has jurisdiction to hear this habeas petition because none of the 'jurisdiction-stripping' statutes in the INA apply where a noncitizen argues that his detention is in violation of the laws and constitution of the United States.

Petitioner is not an applicant for admission currently "seeking admission" and therefore is detained under INA § 1226(a) and is statutorily eligible for a bond hearing before an IJ.

Finally, Petitioner is not required to exhaust immigration remedies, and any exhaustion requirement should be waived, regardless.

Petitioner is Venezuelan citizen who has been living in the United States for more than a year. On August 15, 2025, ICE arrested him near his home in Chicago, Illinois.

ARGUMENT & AUTHORITY

I. This Court Has Jurisdiction

a. § 1252(e) does not apply to Petitioner's claims

Respondents argue that this Court therefore does not have jurisdiction because, "Petitioner challenges the determination, set forth in writing by DHS, that aliens who entered the United States without inspection are subject to mandatory detention…" and judicial review of determinations made under section 1225(b) of this title are limited to the District Court for the District of Columbia. ECF 4, PageID.26-27; citing 8 U.S.C. § 1252(e)(3).

They are incorrect because they have misread the law: § 1252(e) applies specifically to "Judicial review of orders under **section 235(b)(1)** [§ 1225(b)(1), i.e. "expedited removal"]." 8 U.S.C. § 1252(e)(3) (emphasis added). That is, this provision applies only to challenges made to

determinations in the *expedited removal context*, which is not an issue in Petitioner's case. *See, e.g., Shunaula v. Holder*, 732 F.3d 143, 146 (2d Cir. 2013) (§ 1252(e)(3) provides for review of constitutional challenges to the validity of the expedited removal system and statutory challenges to its implementing regulations and written policies.); *Agarwal v. Lynch*, 610 F. Supp. 3d 990, 1005 (E.D. Mich. 2022) ("That statute provides jurisdiction to the district court for the District of Columbia to review 'challenges [to the] validity of the [expedited removal] system.'") (internal quotation marks and citation omitted).

Moreover, § 1252(e)(3) limits jurisdiction to the D.C. Court of Appeals only for "[c]hallenges on the validity of the system." 8 U.S.C. § 1252(e)(3). So, even if that provision covered § 1225(b)(2) (i.e. non-expedited removal of 'applicants for admission'), Petitioner is not challenging any determinations, implementations, or written policies made under § 1225. He does not even dispute that § 1225(b) requires detention of noncitizens detained under that subsection. Instead, he is arguing that the entire section does not even apply to him at all, so § 1252(e)(3) does not bar this Court's jurisdiction. *See, J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 U.S. Dist. LEXIS 215437, at *3 (M.D. Ga. Nov. 1, 2025) (§ 1225(e)(3) does not strip court of jurisdiction to hear habeas challenge to petitioner's detention under § 1225 instead of § 1226); *Orellana v. Moniz*, Civil Action No. 25-cv-12664-PBS, 2025 U.S. Dist. LEXIS 214095, at *14-15 (D. Mass. Oct. 30, 2025) (same).

b. § 1252(g) does not apply to Petitioner's claims

Second, Respondents argue that § 1252(g) "categorically bars jurisdiction over" claims "*arising from*" DHS's decision to "*commence removal proceedings.*" ECF No. 4, PageID.27; quoting 8 U.S.C. § 1252(g) (emphasis in Respondents' brief but not statute).

But section 1252(g) "applies only to three discrete actions that the Attorney General may take: her decision or action to *commence* proceedings, *adjudicate* cases, or *execute* removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphases in original) (cleaned up). Where a habeas petitioner challenges his detention without bond, none of those actions are implicated and there is no jurisdictional bar. *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 U.S. Dist. LEXIS 213732, at *11 (W.D. Mich. Oct. 28, 2025); *see, also, Mustata v. U.S. Dep't of Just.*, 179 F.3d 1017, 1019 (6th Cir. 1999) ("We conclude that 8 U.S.C. § 1252(g) does not eliminate jurisdiction over the Mustatas' 28 U.S.C. § 2241 habeas petition.").

Here, Petitioner does not challenge any exercise of discretion by the Attorney General related to the *commencement*, *adjudication,* or *execution* of his removal proceedings, or indeed, the exercise of any discretion. Instead, he is challenging his continued detention pursuant to the new mandatory detention policy. This is outside the "narrow scope of § 1252(g)." *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097 at *11.

c. § 1252(b)(9) does not bar Petitioner's habeas petition in this Court

Finally, Respondents argue that § 1252(b)(9) bars Petitioner's claim outside of the appropriate court of appeal and in a form other than of a petition for review of a final removal order. ECF No. 4, PageID.29; quoting 8 U.S.C. § 1252(b)(9). That section restricts the jurisdiction and form of proceedings for "judicial review of all questions of law . . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an alien from the United States." *Id.* In Respondents' view, Petitioner is challenging the "decision and action to detain him" and that is an "action taken" to remove him from the United States. ECF No. 4, PageID.24, *citing* 8 U.S.C. § 1252(b)(9).

Respondents cite to Justice Thomas's concurrence in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), for the proposition that detention is an action taken to remove an alien. ECF No. 4, PageID.24; quoting *Jennings v. Rodriguez*, 583 U.S. 281, 319 (2018) (Thomas, J., concurring). But remarkably, Respondents fail to acknowledge the actual plurality opinion in that case that confronted this exact question of law – "whether ... certain statutory provisions require detention without a bond hearing" – and held that federal courts have jurisdiction to decide that question. *Jennings v. Rodriguez,* at 292-95 (plurality opinion). Even more recently, a majority of the Supreme Court characterized *Jennings* as holding that § 1252(b)(9) "'does not present a jurisdictional bar" where petitioners "are not asking for review of an order of removal, 'the decision . . . to seek removal,' or 'the process by which . . . removability will be determined.'" *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020).

Respondents' argument has also been consistently rejected by courts reviewing the most recent wave of immigration habeas petitions. *See, e.g., Ozturk v. Hyde,* 136 F.4th 382, 399 (2d Cir. 2025); *E.V. v. Raycraft*, No. 4:25-cv-2069, 2025 U.S. Dist. LEXIS 220483, at *14 (N.D. Ohio Nov. 7, 2025); *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 U.S. Dist. LEXIS 148899, at *6 (E.D. Tex. Aug. 2, 2025); *Giron Reyes v. Lyons*, 2025 U.S. Dist. LEXIS 188085 (N.D. Iowa Sept. 23, 2025); *Ochoa v. Noem*, No. 25 CV 10865, 2025 U.S. Dist. LEXIS 204142, at *7 (N.D. Ill. Oct. 16, 2025).

Here, Petitioner is not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined. This court's jurisdiction is secure.

II. Administrative Exhaustion is Neither Required nor Appropriate

Petitioner should not be required to exhaust administrative remedies. No other court reviewing the post-*Yajure*[1] habeas petitions has found exhaustion necessary.

a. Exhaustion is not required

There is no rule or statute that requires administrative exhaustion in the context of immigration habeas proceedings so whether to require exhaustion is left to the court's discretion. *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013) (citation omitted).

b. Exhaustion is Not Appropriate in this Case

In deciding whether to require exhaustion in a given case, come courts in this circuit apply the Ninth Circuit's test from *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983). *See Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *10-11 (E.D. Mich. Aug. 29, 2025); *Villalta v. Greene*, No. 4:25-cv-01594, 2025 U.S. Dist. LEXIS 169688, at *2 (N.D. Ohio Aug. 5, 2025).

Under *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983), courts may require exhaustion when:More Like This Passage

> (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

[1] *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), held that all noncitizens in the United States who were not lawfully admitted are "applicants for admission" and that they are thus detained under § 1225(b)(2)(A), not § 1226(a) and so ineligible for bond. *Yajure* is binding on all immigration courts as precedent and divests those courts of jurisdiction to hold a bond hearing.

> (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.
>
> *Id.*

First, under *Yajure,* the immigration courts do not have jurisdiction to conduct bond hearings for people detained under § 1225(b), like Petitioner, so they would not entertain any legal arguments or develop any factual record. More importantly, the Board of Immigration Appeals ("BIA"), has no special expertise regarding statutory interpretation. In fact, district courts are better suited to that task – and have overwhelmingly found the BIA's reasoning and decision in *Matter of Yajure-Hurtado* to be wrong. Moreover, there are no factual issues requiring the BIA to develop the record.

Second, the core of Petitioner's claim is that the BIA's recent interpretation of the administrative scheme *itself* violates due process. This factor cannot weigh in favor of Respondents. Indeed, the Sixth Circuit has previously held that a due process challenge generally does not require exhaustion since the BIA lacks authority to review constitutional challenges. *See Sterkaj v. Gonzales,* 439 F.3d 273, 279 (6th Cir. 2006); *accord Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006) ("exhaustion of administrative remedies may not be required in cases of non-frivolous constitutional challenges to an agency's procedures.") (citation omitted).

Finally, the Attorney General has the power to review BIA decisions, vacate them, and issue their own decisions as precedent. 8 C.F.R. § 1003.1(d)(1)(i), 1003.1(h). In other words, the agency's "mistakes" can be corrected *sua sponte*, precluding the need for judicial review without forcing Petitioner to take an appeal to the BIA.

c. Any Exhaustion Requirement Should be Waived

Even if this court finds that prudential exhaustion is warranted in this case, the court can waive that requirement if appropriate. *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *11 (E.D. Mich. Aug. 29, 2025). For example, when the "legal question is fit for resolution and delay means hardship," a court may choose to decide the issues itself. *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000) (citation omitted). A court may also excuse exhaustion if the "pursuit of administrative remedies would be a futile gesture." *Shearson*, 725 F.3d at 594 (citation omitted).

Here, the legal question is fit for resolution (and has been resolved scores of times in federal courts across the country) and the lengthy BIA appeals process[2] would cause significant hardship to Petitioner as he would be detained the entire time. *Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at *9 (E.D. Mich. Sep. 9, 2025) (waiving exhaustion and finding that the prevention of six months of additional detention outweigh any interests the BIA might have in resolving an appeal).

Moreover, given the fact that the recent re-interpretation appears to reflect Executive policy decisions and the Attorney General has not vacated the *Yajure* decision, pursuing an appeal to the BIA would plainly be futile.

III. Petitioner is Entitled to a Bond Hearing under § 1226(a)(2) and His Continued Detention Violates the INA.

[2] *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *11 (E.D. Mich. Aug. 29, 2025) (Bond appeals before the BIA, on average, take six months to complete) (citing *Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025)).

Respondents' central argument is that § 1225(b)(2)(A) applies to all noncitizens present in the United States who have not been admitted under the meaning of the act. This is incorrect. Respondents' interpretation of the statute disregards the plain meaning of § 1225(b)(2)(A) and is inconsistent with the structure, history, and purpose of the Act.

a. Mandatory Detention Under § 1225(b)(2)(A) Only Applies to Noncitizens Actively Seeking Admission into the United States – and Petitioner is not "Seeking Admission"

There is no dispute between the parties here as to who § 1225(b)(2)(A) applies[3]:

(1) an applicant for admission,

(2) who is seeking admission, and

(3) who is not clearly and beyond a doubt entitled to be admitted.

There is also no dispute that under § 1225(a)(1), Petitioner is "deemed" an applicant for admission as he is an "alien present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). Nor does Petitioner deny that he is not clearly and beyond a doubt entitled to be admitted. But Petitioner is not "seeking admission" and therefore § 1225(b)(2)(A) cannot apply to him.

First, "admission" under the INA has a specific definition:

> The terms "admission" and "admitted" mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.
>
> 8 U.S.C.S. § 1101(a)(13)(A)

[3] Some courts have parsed this section more finely, finding:
> that "for § 1225(b)(2)'s mandatory detention regime to apply, several requirements must be met: (1) an "examining immigration officer" (2) must conclude during an "inspection" (3) of an "applicant for admission" (4) who is "seeking admission" (5) that the person "is not clearly and beyond a doubt entitled to be admitted."
> *Jimenez v. FCI Berlin*, No. 25-cv-326-LM-AJ, 2025 U.S. Dist. LEXIS 176165, at *19-20 (D.N.H. Sep. 8, 2025)

Respondents argue that every "applicant for admission" is inherently and necessarily "seeking admission." ECF No. 4, PageID.36. Or more specifically, "being an applicant for admission" "is a means of" "seeking admission." *Id.* This is circular logic. It ignores the entire phrase "seeking admission" altogether – reading it out of the statute completely. This negates the plain meaning of the text and violates the rule against surplusage. *See, e.g., Martinez v. Hyde*, Civil Action No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 141724, at *12-13 (D. Mass. July 24, 2025) (citing, *United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432, (2023) ("'[E]very clause and word of a statute' should have meaning.")).

Nearly every court examining that plain language of § 1225(b)(2) have held that "seeking admission" requires something more of a noncitizen than just being present in the country without authorization. That is, seeking admission requires an affirmative, currently occurring, discrete act – and more specifically, an act that would logically take place at the nation's borders. *See, e.g. Alvarez v. Noem*, No. 1:25-cv-1090, 2025 U.S. Dist. LEXIS 204896, at *13 (W.D. Mich. Oct. 17, 2025) ("In this Court's opinion, the phrase 'seeking admission' refers to an action that is currently occurring and that would occur at the United States' border when the alien is being inspected."); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *17-18 (E.D. Mich. Aug. 29, 2025) (seeking "implies action — something that is currently occurring, and in this instance, would most logically occur at the border upon inspection"); *Garcia v. Noem*, No. 1:25-cv-1271, 2025 U.S. Dist. LEXIS 213734, at *11 (W.D. Mich. Oct. 29, 2025) ("'seeking admission' refers to an action that is currently occurring and that would occur at the United States' border when the alien is being inspected."); *Ochoa v. Noem*, No. 25 CV 10865, 2025 U.S. Dist. LEXIS 204142, at *13 (N.D. Ill. Oct. 16, 2025) ("seeking admission…necessarily implies some sort of present-tense action."); *Martinez-Elvir v. Olson*,

Civil Action No. 3:25-CV-589-CHB, 2025 U.S. Dist. LEXIS 211070, at *23 (W.D. Ky. Oct. 27, 2025); *Martinez v. Hyde*, Civil Action No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 141724, at *16 (D. Mass. July 24, 2025) (reading "seeking admission" to require specific intentional act "has the added benefit of avoiding the presumptively suspect conclusion that the phrase 'seeking admission' has no separate meaning or effect at all.").

Respondents cite to *Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 U.S. Dist. LEXIS 221830, at *8 (E.D. Mo. Nov. 10, 2025), for the proposition that the statute "unambiguously provides that an alien who is an 'applicant for admission' is 'seeking admission.'" ECF No.4, PageID.38. *Olalde* is one of only a handful of cases across the country that agree with the Respondents' position.[4] There the court reasoned

> that it makes no sense to describe an active applicant for admission as somebody who is not "seeking" admission. To "seek" is a synonym of to "apply" for. *Id.*

With respect to that court, this argument again ignores the fact that equating an "applicant for admission" with someone "seeking admission" renders that latter phrase meaningless and thus rewrites the plain text. Further, it inserts its own language into the statute – finding that § 1225(b)(2) refers to an "active" applicant for admission. Again, this is circular logic but misconstrues the entire analysis. The question is not whether someone seeking admission is an (active) applicant for admission. Rather, what matters here is whether someone who is *not* an "active" applicant for admission (i.e. presenting at the nation's borders, seeking entry) is seeking admission. The plain text distinguishes between the two and so the answer is a resounding no.

[4] To date, counsel's research has revealed only a handful of other district court cases that have agreed with the government's novel and expansive legal interpretation of the INA. *See, Chavez v. Noem*, No. 3:25-cv-02325-CAB-SBC, 2025 U.S. Dist. LEXIS 192940 (S.D. Cal. Sep. 24, 2025); *Lopez v. Trump*, No. 8:25CV526, 2025 U.S. Dist. LEXIS 192557 (D. Neb. Sep. 30, 2025); *Sandoval v. Acuna*, 2025 U.S. Dist. LEXIS 215357 (W.D. La. Oct. 31, 2025); *Oliveira v. Patterson*, 2025 U.S. Dist. LEXIS 218128 (W.D. La. Nov. 4, 2025).

Here, there is no evidence in the record showing that Petitioner was actively seeking admission (or was an "active" applicant for admission) when he was arrested and detained by ICE in Chicago. Because Petitioner is not "seeking admission," § 1225(b)(2)(A)'s mandatory detention provision does not apply.

b. The text and structure of the Act show that § 1225(b)(2)(A) applies at the border and § 1226(a)(2) applies to noncitizens apprehended inside the United States.

Because the plain language of § 1225(b)(2)(A) clearly does not apply to Petitioner, the Court need not engage in any statutory interpretation. Regardless, the overall text and structure support Petitioner's position.

First, the Supreme Court has described the structure of the two separate sections as accomplishing two different goals. Section 1225 is "framed [] as a part of the process that "generally begins at the Nation's borders and ports of entry, where the Government must determine whether [noncitizens] seeking to enter the country are admissible.'" *Rosado v. Figueroa et al.*, No. 2:25-cv-02157, 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099, at *8 (citing *Jennings v. Rodriguez*, 583 U.S. 281, 287-88 (2018)); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 U.S. Dist. LEXIS 169423 at *7 (E.D. Mich. Aug. 29, 2025).

Thus, courts have consistently found that the statute's references to noncitizens "seeking admission" places "temporal limits on its reach… and § 1225 clearly establishes an inspection scheme for when to let noncitizens into the country" and "governs the entrance of noncitizens to the United States," but no more. *E.g., Pizarro Reyes*, 2025 U.S. Dist. LEXIS 175767, at *5; *Barrera v. Tindall*, No. 25-541, 2025 U.S. Dist. LEXIS 184356, at *4 (W.D. Ky. Sept. 19, 2025) (holding the text of § 1225 is focused "on inspections for noncitizens when they arrive" and

"suggest[s] [it] is limited to noncitizens arriving at a border or port and are presently 'seeking admission' into the United States.").

Respondents' fail to grapple with *Jennings* at all (or, indeed, the hundreds of cases holding that § 1226, not §1225 applies to people like petitioner). Instead, they baldly assert that "Congress intended for the detention of aliens like Petitioner under § 1225(b)(2)." ECF No. 4, PageID.42. But this argument is supported only by their citation to *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA Sept. 5, 2025), which has not binding on this Court and is not entitled to any deference.

Second, accepting Respondents' interpretation would ignore recent amendments to § 1226 and render Congress' those additions superfluous or at a minimum, insignificant. This violates a central canon of statutory interpretation. *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("It is 'a cardinal principle of statutory construction' that a 'statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.'" (quoting Duncan v. Walker, 533 U.S. 167, 174 (2001)); *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 U.S. Dist. LEXIS 213732, at *24-25 (W.D. Mich. Oct. 28, 2025).

Congress enacted the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025), earlier this year. The act amended § 1226 to define a new group of noncitizens who are subject to mandatory detention. Specifically, the Act added a subsection that explicitly mandates detention for those noncitizens who are inadmissible under §§ 1182(a)(6)(A), 1182(a)(6)(C), and 1182(a)(7), and who have been arrested for, charged with, or convicted of certain crimes. See 8 U.S.C. § 1226(c)(1)(E).

Notably, § 1182(a)(6)(A) refers to "[a]n alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General . . .", in other words, someone like Petitioner. If all individuals like Petitioner, "present in the United States without being admitted or paroled," were already subject to mandatory detention under § 1225, then there would have been no need for Congress to amend the INA to provide for mandatory detention of individuals who were "present in the United States without being admitted or paroled" and who were arrested, charged with, or committed certain crimes. Respondents' interpretation of §§ 1225 and 1226 thus nullifies Congress's intent and makes § 1226(c)(1)(E) entirely superfluous (or at a minimum insignificant). *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 U.S. Dist. LEXIS 213732, at *24-35 (W.D. Mich. Oct. 28, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *23 (E.D. Mich. Aug. 29, 2025) ("If § 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then adding § 1226(c)(1)(E) to the statutory scheme was pointless" and this Court, too, "will not find that Congress passed the Laken Riley Act to 'perform the same work' that was already covered by § 1225(b)(2).")

Respondents argue that their reading of § 1225(b)(2)(A) would not render the Laken Riley Act's amendment at § 1226(c)(1)(E) completely superfluous – that it "has substantial independent effect beyond aliens that entered without admission." ECF No. 4, PageID.39. In particular, Respondents argue that § 1226(c)(1)(E) can be read as only applying to visa overstayers because they are not covered by § 1225(b)(2)(A). *Id.* Additionally, they argue that the Laken Riley Act amendment can be read as only applying only to noncitizens "admitted in

error." *Id.* at PageID.41 Therefore, their reading of § 1225(b)(2)(A) as covering all noncitizens present without admission does not render that section totally superfluous.

With due respect, this argument requires an extraordinary exercise of of mental and linguistic gymnastics. Here, the plain reading of the text, and the obvious reading of § 1226 and its recent amendments make clear that Respondents' position is contrary to the structure of the Act and cannot be correct.

IV. Petitioner's Detention Without Bond Violates Due Process

a. Petitioner is Entitled to Full Due Process Protections

Respondents argue that in the immigration context, the Supreme Court has held that the process due under the constitution is coextensive with the removal procedures provided by Congress. ECF No. 4, PageID.45, *citing Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 138-40 (2020). Thus, in Respondents view, because the statute allows for mandatory detention during removal proceedings, Petitioner has received all the process he is due. *Id.* This is circular logic as it relies on their assumption that Petitioner is properly held under § 1225.

The Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Respondents argue, "aliens who arrive at ports of entry . . . are treated for due process purposes as if stopped at the border." ECF No. 4, PageID.45 citing *Thuraissigiam,* 591 U.S. at 139. That may be true, but Thuraissigiam was apprehended 25 yards past the border shortly after crossing. By contrast Petitioner was arrested in Chicago after living here for over two years. Thus, Petitioner was "already in the country." *See,* Jennings, 583 U.S. at 289. He is entitled to the full extent of Due Process protections.More Like This Passage

b. Petitioner's Detention Without Bond Violates Due Process

Courts balance three factors to determine whether a due process violation has occurred:

(1) the private interest at stake;
(2) second, the risk of erroneous deprivation and the value, if any, of additional procedural safeguards;
(3) and third, the government's countervailing interests.

Mathews v. Eldridge, 424 U.S. 319, 335 (1976)).

Each factor supports Petitioner's claim: His private interest in his liberty is great. The risk of erroneous deprivation without the bond hearing to which Petitioner is entitled is high. And any interest the government has in avoiding the cost of a bond hearing or in ensuring the petitioner does not flee is outweighed by the first two considerations. Absent a "special justification," Petitioner's detention without a bond hearing violates due process. *Zadvydas*, 533 U.S. at 690 (government detention violates the Due Process Clause in civil cases unless "a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" Thus, as many other district courts have found, Petitioner's detention without a bond hearing violates his constitutional rights. *E.g., Arizmendi v. Noem*, No. 25 C 13041, 2025 U.S. Dist. LEXIS 218000, at *10-12 (N.D. Ill. Nov. 5, 2025) ("Arizmendi's detention without a bond hearing violates due process"); *Ochoa v. Noem*, No. 25 CV 10865, 2025 U.S. Dist. LEXIS 204142, at *17 (N.D. Ill. Oct. 16, 2025) (same); *Benitez v. Francis*, 2025 U.S. Dist. LEXIS 157214, at *34 (S.D.N.Y. Aug. 8, 2025); *Doe v. Moniz*, Civil Action No. 1:25-cv-12094-IT, 2025 U.S. Dist. LEXIS 173360, at *27 (D. Mass. Sep. 5, 2025) ("In sum, the Mathews factors weigh in favor of Petitioner, and the court finds that his detention without a bond hearing violates his Due Process rights.").

V. The Court Should Decline to Dismiss Respondents Bondi and Noem.

Respondents argue that an order preventing the transfer of Petitioner out of the Western District of Michigan is unnecessary because the Court will maintain jurisdiction regardless of where DHS holds him. They also ask the Court to dismiss Secretary Noem and Attorney General Bondi because the Detroit ICE Field Director is Petitioner's immediate custodian and thus the only proper respondent. They cannot have it both ways.

Courts in this district and elsewhere have generally declined to prohibit the transfer of the petitioner in similar habeas cases but have also declined to dismiss either Secretary Noem or Attorney General Bondi, or both to assure the Respondents have authority to enforce the habeas relief (i.e. a bond hearing or immediate release). *De Jesus Ramirez v. Noem*, No. 1:25-cv-1261, 2025 U.S. Dist. LEXIS 215421, at *24-25 (W.D. Mich. Oct. 31, 2025); *Rodriguez Serrano v. Noem*, No. 1:25-cv-1320, 2025 U.S. Dist. LEXIS 220620, at *23-24 (W.D. Mich. Nov. 7, 2025); *Alvarez v. Noem*, No. 1:25-cv-1090, 2025 U.S. Dist. LEXIS 204896, at *25 (W.D. Mich. Oct. 17, 2025); *Gonzalez v. Raycraft*, No. 25-cv-13094, 2025 U.S. Dist. LEXIS 211250, at *12-13 (E.D. Mich. Oct. 27, 2025); *Carmona v. Noem*, No. 1:25-cv-1131, 2025 U.S. Dist. LEXIS 209629, at *24 (W.D. Mich. Oct. 24, 2025); *but see, Diego v. Raycraft*, No. 25-13288, 2025 U.S. Dist. LEXIS 222614, at *6 (E.D. Mich. Nov. 12, 2025)(dismissing Noem and Bondi but allowing petitioner to amend her petition if "she can allege facts that lead her to believe she could be transferred to avoid the Court's jurisdiction.")

Petitioner requests this Court allow the Petition to continue with all named Respondents, and in the alternative, reserves his right to amend the Petition should any Respondent be dismissed.

VI. CONCLUSION

Petitioner respectfully requests this Court grant his petition and issue a writ of habeas corpus requiring

a. that Respondents release Petitioner from custody immediately and give him a bond hearing before an immigration judge within 14 days;

b. or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 3 days where the government bears the burden of proof by clear and convincing evidence that Petitioner is a flight risk or danger to the community and for any other relief the Court finds appropriate.

Dated: November 18, 2025

Respectfully submitted,

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