UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA

Case Number: 3:25-cv-01347-JEP-PDB

EDUAR JOEL ARANDA BERMUDEZ,

Petitioner,

v.

RONNIE WOODALL, et. al.
in his official capacity,

Respondents.

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PETITIONER'S TRAVERSE

Petitioner respectfully submits this traverse in response to the Respondents' return [ECF No. 11] filed on December 15, 2025. This case turns on whether Petitioner's present detention is governed by 8 U.S.C. §1225(b)(2), a mandatory detention provision, or 8 U.S.C. §1226(a), a discretionary detention provision that affords Petitioner the procedural right to a bond hearing. This traverse addresses that question, *inter alia*.

I. Introduction

Respondents' return misreads both the text and structure of the Immigration and Nationality Act ("INA"). Respondents' return also unfortunately misrepresents the record when it asserts that "...the IJ [immigration judge] denied [Petitioner's] bond on a ground independent of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There is no showing denial on that separate basis was somehow insufficient." [ECF No. 11] pp. 8-9. This is incorrect. In fact, *Matter of Yajure Hurtado* was the only basis for Petitioner's bond

denial in immigration court on October 23, 2025. *See* [ECF No. 1-5]. Petitioner has not yet had an individualized bond hearing.

Respondent's return does not come to terms with the enormous body of recent case law that has developed regarding the statutory misclassification of persons who, like Petitioner, entered the United States without inspection. The tally continues to increase, but more than one hundred district court judges throughout the country have found that persons like Petitioner are entitled to an individualized bond hearing or release and that such noncitizens are not subject to mandatory detention under 8 U.S.C. 1225(b)(2)(A).[1] Several of these cases are referenced and discussed *infra*.

Respondents' return declines to meaningfully discuss—much less attempt to contrast—recent decisions from the Middle District of Florida that address the fundamental point at issue in this case: statutory classification under §1226(a) (a discretionary detention statute) versus §1225(b)(2)(A) (a mandatory detention statute). *See Hernandez-Lopez v. Hardin, et al.*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025); *Bautista v. Noem, et al.*, No. 2:23-CV-996-KCD-DNF (M.D. Fla. Nov. 19, 2025); *Avalos v. Hardin*, No. 2:25-CV-01008-KCD-DNF (M.D. Fla. Dec. 10, 2025); *Perez v. Noem, et al.*, No. 2:25-CV-1052-KCD-NPM (M.D. Fla. Dec. 11, 2025); *Gonzalez v. Noem, et al.*, No. 2:25-CV-1047-KCD-DNF (M.D. Fla. Dec. 18, 2025). In addition, the Southern District of Florida has addressed this legal issue and similarly ruled in the favor of habeas

[1] "More than 100 judges have ruled against Trump's mandatory detention policy." October 31, 2025. Available at: https://www.politico.com/news/2025/10/31/trump-administration-mandatory-detention-deportation-00632086

petitioners seeking the procedural protection of an individualized bond hearing pending their removal proceedings. *See Rivera Martinez v. Ripa*, 25-25086-cv-Martinez (S.D. Fla. Dec. 10, 2025); *Alvarez Puga v. Ripa*, 25-24535-cv-Altonaga (S.D. Fla. October 15, 2025); *Aguilar Merino v. Ripa*, 25-23845-cv-Martinez (S.D. Fla. October 15, 2025).

The Government's assertions that supposed jurisdictional bars in 8 U.S.C. § 1252(g) and §1252(b)(9) prevent judicial review in habeas have similarly been rejected by other courts as without merit. Section 1252(g) bars review only of three discrete actions, specifically: commencing removal proceedings, adjudicating removal, or executing removal. Petitioner does not challenge any of those actions. Sections 1252(b)(9) and 1252(a)(5) apply to review of final orders of removal, yet Petitioner does not have—and has never had—a final order of removal. That is why one recent decision in this district equated similar jurisdictional arguments as a "'throw spaghetti at the wall and see what sticks' approach." *See Hinojosa v. Noem*, 25-cv-00879-SPC-NPM (M.D.Fla. October 29, 2025) at *5.

Respondents illogically stretch §1225(b)(2) far beyond its intended border-inspection context, disregard Congress's explicit distinction between "inspection" under Section 1225 and "arrest and custody" under Section 1226. Properly interpreted, Petitioner's detention falls under Section §1226(a), the statute that governs post-entry arrests within the United States and provides for discretionary bond consideration. The vast majority of federal district courts ruling on this issue have declined to grant deference to the BIA's agency decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025) and have independently found that 1226(a) applies. *See Gonzalez v. Noem*, No. 2:25-CV-

1047-KCD-DNF (M.D. Fla. Dec. 18, 2025); *Rivera Martinez v. Ripa*, No. 25-25086-CV (S.D. Fla. Dec. 10, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez-Campos*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Lopez-Arevelo v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-7492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Covarrubia v. Vergara*, No. 5:25-CV-112 (S.D. Tex. Oct. 8, 2025).

A. Procedural Introduction and History

Petitioner, a citizen of Honduras, entered the United States without inspection on or around June 8, 2019, when he was fourteen (14) years old. He has never departed from the United States since his date of entry. Upon information, knowledge, and belief, Petitioner has not been arrested or convicted of any crime since his entry to the United States in 2019. After being processed and released from custody into the United States, he subsequently filed a Form I-589, Application for Asylum, Withholding of Removal, and protections under the Convention Against Torture with USCIS who has exclusive jurisdiction over unaccompanied alien child (UAC) asylum applications, after being abandoned by his mother, declared dependent by the Seventeenth Judicial Circuit in Broward County, Florida. Petitioner complied with his biometrics requirements, and his asylum application is still pending. While his application still remains pending before USCIS, the Petitioner applied for his Employment Authorization Document (EAD), finished high school, held employment, and filed taxes as a contributing member of society.

On September 29, 2025, Florida Highway Patrol stopped petitioner's vehicle in Marion County, Florida, for a lane change violation and expired driver's license, and an Immigration and Customs Enforcement (ICE) agent subsequently placed him into federal custody. Petitioner has no other known criminal history. On October 23, 2025, Petitioner attended a scheduled bond hearing, and the IJ denied bond stating that Petitioner is not entitled to individualized consideration for release from custody. The IJ relied exclusively on an erroneous agency decision that categorizes Petitioner as subject to mandatory detention. *See Matter of Yajure Hurtado,* 29 I&N Dec. 216 (B.I.A. 2025). Petitioner's detention on this basis violates the plain language of the INA. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered the U.S without inspection and have now been residing in the United States for years. Instead, such individuals are subject to a different statute, § 1226(a), which allows for release on conditional parole or bond after a hearing with an IJ. That statute expressly applies to people who-like Petitioner-are arrested within the United States pending removal proceedings. On November 7, 2025, Petitioner, by and through his counsel, filed a Petition for Writ of Habeas Corpus. On December 15, 2025, the Respondents, through counsel, filed a Response.

II. Statutory Framework

A. §1252 Does Not Bar Jurisdiction

Federal courts are "courts of limited jurisdiction," possessing "only that power authorized by Constitution and statute." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). 28 U.S.C. § 2241 is the primary federal habeas statute, which authorizes federal courts to hear "statutory and constitutional challenges to post-removal-

period detention." *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). 8 U.S.C. § 1252(g) provides that "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). But 8 U.S.C. § 1252 does not serve to divest this Court of jurisdiction. The overarching point is that Petitioner is not challenging a removal order (none exists here) or any aspect of his removal proceedings. Notably the Respondent does not cite to a single case in which their jurisdictional arguments have prevailed where a habeas petitioner challenged his statutory misclassification under 1225(b)(2) mandatory detention.

Therefore, the Government's reliance on § 1252(g) and § 1252(b)(9) is misplaced. Petitioner does not challenge the Government's discretion to commence proceedings, adjudicate cases, or execute removal orders. Instead, Petitioner challenges the underlying legal basis of his *detention* without an opportunity to request an individualized bond hearing. Here, Petitioner does not challenge the initiation of removal proceedings; he challenges only the lawfulness of his detention while awaiting such proceedings. Likewise, § 1252(b)(9) restricts judicial review of final orders of removal, yet Petitioner has no final order of removal and has never had one. This case, by contrast, concerns the ongoing legality of detention pending his removal proceedings and Petitioner asserts that his confinement is governed by 8 U.S.C 1226(a) which governs post-entry custody and provides for discretionary bond consideration. *See id.* The Middle District of Florida recently reaffirmed that § 1252(g) does not bar review of claims seeking review of the

substantive legality of detention. *Gonzalez v. Noem*, No. 2:25-CV-1047-KCD-DNF (Dec. 18, 2025). The Supreme Court has interpreted § 1252(g) narrowly, emphasizing that it does not create a general bar to judicial review or sweep in all claims "arising from" deportation proceedings; rather, courts must focus on whether the claim challenges one of the three covered actions themselves. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 487 (1999) (explaining that § 1252(g) is a "discretion-protecting provision" intended to prevent the deconstruction or prolongation of removal proceedings and does not bar review of all claims arising from or relating to deportation proceedings); *see also Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020); *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018).

In addition, the Eleventh Circuit has similarly distinguished between claims that directly challenge one of the three discrete actions listed in § 1252(g), specifically commencing proceedings, adjudicating cases, or executing removal orders, and claims challenging the "underlying legal bases" of those decisions or actions, holding that challenges to the legality of detention or statutory authority are not barred. *Madu v. U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006).

The Middle District of Florida too has reaffirmed that §1252(g) does not bar review of claims seeking review of the substantive legality of detention as opposed to the commencement or execution of removal proceedings. *Gonzalez v. Noem*, No. 2:25-CV-1047-KCD-DNF ("[T]he Court was satisfied of its jurisdiction and found that petitioners were being held in violation of their rights under the INA, entitling them to habeas relief.");

Hernandez-Lopez v. Hardin, et al., No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025); *Bautista v. Noem, et al.*, No. 2:23-CV-996-KCD-DNF (M.D. Fla. Nov. 19, 2025); *Avalos v. Hardin*, No. 2:25-CV-01008-KCD-DNF (M.D. Fla. Dec. 10, 2025); *Perez v. Noem, et al.*, No. 2:25-CV-1052-KCD-NPM (M.D. Fla. Dec. 11, 2025).

District courts have also rejected Respondent's related jurisdictional bar argument that 1252(b)(9) preventing judicial review. 1252(b)(9) applies to claims requesting review of a removal order, but it does not apply here because the Petitioner only challenges his detention without a bond hearing, not judicial review of an order of removal on appeal. *See Ocampo Fernandez v. Ripa*, 25-cv-24981-Leibowitz (S.D. Fla. Nov. 25, 2025) at *5. With regard to 1252(b)(9), the government's position was squarely addressed and rejected in *Jennings v. Rodriguez*, where the United States Supreme Court held that "questions of law" regarding whether "certain statutory provisions require detention without a bond hearing" do not "arise from" the decision to remove an alien from the country as set forth in section 1252(b)(9). *Jennings,* 583 U.S. 281, 292–294 (2018). The Supreme Court rejected an "expansive interpretation of § 1252(b)(9)," explaining that even if "[t]he 'questions of law and fact' . . could be said to 'aris[e] from' actions taken to remove the aliens in the sense that the aliens' injuries would never have occurred if they had not been placed in detention," this "expansive interpretation of § 1252(b)(9) would lead to staggering results." Id. Moreover, section 1252(b)(9) "does not present a jurisdictional bar where those bringing suit 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). Here, Petitioner is not bringing a challenge related to his removal proceedings; rather, he is challenging his detention under section 1225(b), and judicial review of whether he is entitled to a bond hearing.

In sum, the Zipper Clause is not a relevant jurisdictional bar vis-à-vis a habeas petition challenging unlawful detention. *See Vasquez Carcamo v. Noem*, No. 25-cv-00922, 2025 WL 3119263, at *2 (M.D. Fla. Nov. 7, 2025); *Madu v. U.S. Att'y Gen.*, 470 F.3d 1362, 1367 (11th Cir. 2006) ("Because we find that [the petitioner] does not challenge 'a final administrative order of removal' or seek review of a removal order, neither section 106(c) nor section 1252(a)(5) apply to this case. . . . [Section] § 1252(b) is equally clear that subsection (b)(9) applies only 'with respect to review of an order of removal.'")

B. Section 1226(a) Applies, Not 1225(b)(2)

The Government's argument that Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2) mischaracterizes both the statutory text and the relevant case law. While § 1225 defines an "applicant for admission" to include aliens present in the United States without admission, the provision does not place every noncitizen into a category that precludes review of detention under § 1226(a). As the Supreme Court has emphasized, statutory interpretation must begin with the plain language, but context and application are equally critical. *See Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)).

The respondents maintain that the "seeking admission" phrase in § 1225(b)(2) does

not preclude the provision's application to Petitioner because the terms applicant for admission and seeking admission are synonymous. If the two phrases were actually synonymous, the phrase "seeking admission," although different from "applicant for admission" and appearing in the same sentence of the statute, would be rendered superfluous. The respondents' reading of the provision would violate well-established principles requiring courts to give meaning to each phrase in a statute. *See TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001). The respondents' argument that the two different phrases in § 1225(b)(2) are synonymous therefore is not persuasive. As stated above, for decades the courts and DHS have interpreted § 1225(b)(2) to apply to noncitizens who seek admission upon arrival at ports of entry or near the border, and have interpreted § 1226(a) to apply to noncitizens already present in the United States. *See Jennings*, 583 U.S. at 289. Under the plain language of the statute, Petitioner was not "seeking admission" into the United States when detained in Florida for a traffic violation and transferred to ICE custody years after having entered the United States.

Petitioner also directs the Court's attention to the Laken Riley Act (LRA), 8 U.S.C. § 1226(c)(1)(E), which Congress passed in early 2025. The LRA, which is codified with the discretionary detention provisions of § 1226, mandates detention for "any alien who . . . is inadmissible" under certain sections of 8 U.S.C. § 1182(a) and "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of" certain crimes. 8 U.S.C. § 1226(c)(1)(E). The LRA is instructive because, if § 1225(b)(2)'s mandatory detention provision applied as broadly as the respondents urge, Congress would not have been required to amend § 1226(c)(1) to

except some inadmissible aliens from discretionary detention. In other words, the respondents' reading of the statute renders the recent LRA superfluous if persons who entered without inspection were universally subject to mandatory detention with or without any disqualifying criminal activity. Here, both the courts and the executive agencies with authority over immigration matters have long interpreted § 1226 to apply to noncitizens who are already present in the United States. *See, e.g.*, *Jennings*, 583 U.S. at 289, 303.

Petitioner falls squarely within the category of noncitizens present without admission but who are not "arriving" at or near a port of entry. During Petitioner's arrest on September 29, 2025, he did not engage with the inspection regime applied to actual applicants for admission at a point of entry. *See generally* 8 U.S.C. § 1225(b). He was instead arrested by ICE after an encounter with Florida Highway Patrol five years after he entered the United States. Courts have repeatedly recognized that § 1225(b)(2) does not displace §1226(a) for arrests in the interior of the country. *See Lopez-Arevelo*, 2025 WL 2691828, at *6. That is the case here, since Petitioner has been in the United States since his entry as an unaccompanied minor in 2019.

Courts throughout the nation considering the precise question at issue here have concluded that § 1226(a), not § 1225(b)(2), governs detention of noncitizens arrested while already present within the inside the country. *See Gonzalez v. Noem*, No. 2:25-CV-1047-KCD-DNF (Dec. 18, 2025); *Rivera Martinez v. Ripa*, No. 25-25086-CV (S.D. Fla. Dec. 10, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez-Campos*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Lopez-Arevelo v.*

Ripa, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-7492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Covarrubia v. Vergara*, No. 5:25-CV-112 (S.D. Tex. Oct. 8, 2025).

The Government's position has been rejected repeatedly in the Middle District of Florida. In *Gonzalez*, a recent example, the court reviewed whether a noncitizen arrested inside the United States after entry is detained under Section 1225(b)(2) or Section 1226(a). *Gonzalez v. Noem*, No. 2:25-CV-1047-KCD-DNF (M.D. Fla. Dec. 18, 2025). The *Gonzalez* Court held unequivocally that Section 1226(a) applies. In doing so, it carefully examined the text, structure, and history of both provisions, concluding that Section 1226(a) governs those already present in the United States and that no jurisdictional bars apply to habeas relief. *Id.* at *2-3. The *Gonzalez* Court explained that reading Section 1225(b)(2) to encompass arrests well within the interior of the United States would make Section 1226(a) superfluous and contradict the INA's structure. *Id.* This holding squarely rejects the interpretation advanced by the Government here and confirms that Section 1226(a) governs detention following an interior arrest.

Gonzalez firmly stands for the proposition that Petitioner is entitled to a new bond hearing or release: "His detention is thus governed by § 1226. And as a noncitizen detained under § 1226, Gonzalez is entitled to a bond hearing." *Gonzalez v. Noem*, No. 2:25-CV-1047-KCD-DNF (Dec. 18, 2025) at *3. A related case in the Southern District of Florida referenced *supra* also rejected the Respondents' reliance on *Matter of Yajure Hurtado* and

DHS's interpretation of the applicability of § 1225(b)(2), when concluding that "section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a)." *Alvarez Puga*, 25-24535-cv-Altonaga (S.D. Florida Oct. 15, 2025) at *10.

As a result, §1225 cannot logically apply to someone who has resided in the country for years. *Alvarez Puga*, a recent decision from the District of Southern Florida, considered whether a habeas petitioner was subject to mandatory detention under §1225(b)(2)(A). *See Alvarez Puga*, 25-24535-cv-Altonaga (S.D. Florida Oct. 15, 2025). Many new district court decisions have reaffirmed this analysis by *Gonzalez* and *Alvarez Puga*. As the *Alvarez Puga* Court concluded, "section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a)." *Alvarez Puga*, 25-24535-cv-Altonaga (S.D. Fla. Oct. 15, 2025).

Under the plain language of § 1225(b)(2) and § 1226(a); the structure of the statute's mandatory detention provisions in § 1225(b)(2) and discretionary detention provisions in § 1226(a); the LRA added by Congress last year; the canons of statutory construction requiring a court to give effect to all of a statute's phrases and provisions; the longstanding administrative and judicial interpretation of the statutory provisions; and authorities cited by both parties, the Court should determine that the Petitioner's detention falls under 8 U.S.C. § 1226(a).

C. Exhaustion of Remedies is Futile

Before the Court is a claim that cannot be redressed by the BIA. *See Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per curiam) ("the inability of the INS to adjudicate the constitutional claim completely undermines most, if not all, of the purposes underlying exhaustion."). In *Matter of Yajure Hurtado*, the BIA rejected the precise argument Petitioner raises here. Requiring Petitioner to exhaust administrative remedies should not be allowed if "it appears evident that a noncitizen like Petitioner, who has resided in the United States for years but has not been admitted or paroled, will be subject to mandatory detention without bond under section 1225(b)(2) upon review by the BIA." *Alvarez Puga v. Ripa*, 25-24535-cv-Altonaga (S.D. Fla. October 15, 2025) at *6. Respondent cites to an entirely inapposite case in which exhaustion was addressed but became entirely moot because the habeas petitioner had been ordered removed during the pendency of his habeas proceedings. [ECF No. 11] at p. 8 (citing to *Juarez Alfredo v. Warden, Glades Cnty. Detention Ctr.,* No. 2:25-cv-00610-SPC-KCD (Doc. 5) (M.D. Fla. Oct. 17, 2025)) Those are not the facts of the present case.

Administrative exhaustion is futile here since any "bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility." *Id.*; *see also Jefry Josue Del Cid Del Cid and Marlon Letona Marroquin v. Pamela Bondi*, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025); *Guerrero Orellana v. Moniz*, --F. Supp. 3d--, 2025 WL 2809996, at *4 n.2 (D. Mass. Oct. 3, 2025); *Inlago Tocagon v. Moniz*, --F. Supp. 3d--, 2025 WL 2778023, at *2 (D. Mass. Sept. 29, 2025); *Roman v. Noem*, No. 25-cv-01684, 2025 WL 2710211, at *5 (D. Nev. Sept. 23, 2025). Respondents also contend that Petitioner did not exhaust available

administrative remedies even though the Middle District of Florida has already considered and rejected the government's identical exhaustion argument elsewhere in *Hernandez-Lopez*, and the same reasoning applies here. *See Hernandez-Lopez v. Hardin, et al.*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025); *Bautista v. Noem, et al.*, No. 2:23-CV-996-KCD-DNF (M.D. Fla. Nov. 19, 2025); *Avalos v. Hardin*, No. 2:25-CV-01008-KCD-DNF (M.D. Fla. Dec. 10, 2025); *Perez v. Noem, et al.*, No. 2:25-CV-1052-KCD-NPM (M.D. Fla. Dec. 11, 2025); *Gonzalez v. Noem, et al.*, No. 2:25-CV-1047-KCD-DNF (M.D. Fla. Dec. 18, 2025).

Courts in the Southern District of Florida also have already recognized that exhaustion is not required where the administrative process offers no genuine chance for adequate relief or would be futile. *See Alvarez Puga v. Ripa*, 25-24535-cv-Altonaga (S.D. Fla. October 15, 2025); *see also Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982). As the Southern District of Florida noted, the BIA's published decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), which is binding in all similar cases, makes clear that a noncitizen in Petitioner's position would inevitably be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2). *Id.* Because the BIA cannot provide the relief sought, requiring exhaustion would be futile. *Id.* Petitioner has already attended a bond hearing, and his bond was denied based on a misapplication of the relevant statutes. Exhaustion is prudential, not jurisdictional in the Eleventh Circuit. Other district courts have excused exhaustion in light of the agency's unequivocal (albeit mistaken) position on this matter as set forth in the BIA decision *Matter of Yajure Hurtado*.

See, e.g., *Inlago Tocagon v. Moniz*, No. 25-cv-12453, 2025 WL 2778023, at *2 (D. Mass. Sept. 29, 2025); *Vazquez v. Feeley*, No. 25-cv-01542, 2025 WL 2676082, at *9–10 (D. Nev. Sept. 17, 2025).

III. Conclusion

For the foregoing reasons, Petitioner respectfully submits that Petitioner's detention is governed by 8 U.S.C. § 1226(a), which provides for discretionary bond consideration, and the statutory and constitutional claims raised here remain fully reviewable. The authorities cited by Respondents do not support their expansive reading of § 1225(b)(2), nor do they bar judicial review of Petitioner's detention. Accordingly, the Court should reject the Government's arguments, maintain jurisdiction over the Petition, and grant the relief requested by Petitioner, namely, Petitioner respectfully requests that the government either immediately provide an individualized bond hearing or release him. Petitioner also respectfully requests that this Court should reserve jurisdiction to enforce its Order against any agency claiming legal custody of Petitioner, including the U.S. Attorney General which oversees the immigration courts.

Respectfully submitted,

Dated: January 14, 2026

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