

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JUAN DE DIOS CAMPUZANO ESCOBAR, Petitioner, v. KEVIN RAYCRAFT, Acting Field Office Director of Enforcement and Removal Operations, Detroit, United States Immigration and Customs Enforcement, <i>et al.</i> , Respondents.	Case No. 1:25-cv-00830 District Judge Susan J. Dlott Magistrate Judge Elizabeth Preston Deavers
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PETITIONER’S REPLY TO RETURN OF WRIT

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INTRODUCTION

This Court should grant Petitioner’s, Mr. Campuzano Escobar, writ of Habeas Corpus. First, this court has jurisdiction under 28 U.S.C. § 2241 over challenges to detention under 8 U.S.C. § 1226, which governs the detention of noncitizens already present within the United States. Second, exhaustion is not required because, under the Sixth Circuit’s prudential exhaustion framework, pursuing administrative remedies would be futile in these circumstances¹. Finally,

¹ *Matter of Yajure Hurtado*, 29 I&N Dec. 216, (BIA 2025) removed jurisdiction from IJs. Additionally, after the order granting Petitioners’ partial judgement on November 20, 2025, in *Maldonado Bautista et al v. Santacruz Jr et al.* 5:25-

II. The Petitioner should not be required to exhaust administrative remedies.

Respondents argue that Petitioner must exhaust administrative remedies before seeking relief from this Court, asserting that other avenues for relief remain available. This argument is both legally and practically flawed.

First, Respondents contend that Petitioner is detained under 8 U.S.C. § 1225. However, the recent BIA decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), has stripped Immigration Judges of jurisdiction to hear bond requests for noncitizens present in the United States without admission. The BIA held that, under a plain reading of § 1225(b)(2)(A), Immigration Judges lack authority to grant bond to aliens, like Petitioner, who are physically present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. at 225. As a result, requiring Petitioner to request a bond hearing from an Immigration Judge or the BIA would be futile: there is no reason to believe that either would reach a different result. See *Flores v. Olson*, No. 25 C 12916, at 4–5 (N.D. Ill. Nov. 3, 2025) (“[T]here is no reason to believe that an immigration judge or the BIA will decide [Petitioner’s] case differently”). Petitioner has no administrative avenue for release; the only practical remedy lies with this Court.

In this case, Respondents rely on *Ba v. Director, Detroit Field Office of ICE*, No. 4:25-cv-2208 (N.D. Ohio Oct. 22, 2025) (Return of Writ, ECF 6, PageID 52), arguing that exhaustion is required. Their reliance is misplaced. In *Ba*, the petitioner had already litigated a bond determination and expressly reserved the right to appeal, and the court’s analysis focused on the collateral nature of a pending bond appeal. Here, Petitioner’s pending BIA appeal arises from his removal proceedings themselves, not a bond decision, and by the time bond became relevant, IJs no longer had a jurisdiction to hear it. *Ba* therefore provides no support for Respondents’ position.

Respondents further argue that Petitioner did not express “his desire for a bond hearing” or raise concern about “being deprived of even the option of determining his jurisdiction over bond, including determining what section of law applies to this Petitioner with respect to bond” (Return of Writ, ECF 6, PageID 54). This argument ignores the facts. At Petitioner’s last hearing on February 7, 2025, he was not in detention, and the immigration judges’ jurisdiction over bond was fully intact and unrestricted. Under these circumstances, it was impractical and unnecessary for Petitioner to request a bond hearing or assert a jurisdictional limitation. Respondents’ expectation that he should have done so imposes an artificial and unsupported requirement.

Respondents also completely mischaracterize *Garcia v. Noem*, 1:25-cv-1271 (W.D. Mich. Oct. 29, 2025) (Return of Writ, ECF 6, PageID 55). In fact, the court in *Garcia* concluded that prudential exhaustion was not required: “Upon consideration of these factors, this Court concludes that prudential exhaustion should not be required in Petitioner's case.” *Garcia*, 1:25-cv-1271 at 5. The court further explained that even when exhaustion might ordinarily apply, it may be waived: “Alternatively, even in situations where a court may ordinarily apply prudential exhaustion, the court may still choose to waive exhaustion. (...) A court may choose to rule upon the merits of the issues presented when the 'legal question is fit for resolution and delay means hardship.' (...) A court may also waive exhaustion if the 'pursuit of administrative remedies would be a futile gesture.' (...) Here, there is no question that delay would result in hardship to Petitioner.” (Citations omitted) *Garcia*, 1:25-cv-1271 at 7. The court ultimately ruled on the merits, granting relief and ordering a bond hearing: “The Court will enter a Judgment granting Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. (ECF No. 1.) The Court will order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within five business days of the date of this Court's Opinion and accompanying Judgment or, in the alternative, immediately release

Petitioner from custody.” *Garcia*, 1:25-cv-1271 at 23. Far from supporting Respondents’ position, *Garcia* demonstrates that courts may waive exhaustion where delay would cause hardship or administrative remedies would be futile—the very circumstances present here.

Respondents’ argument is further internally inconsistent. Respondents simultaneously assert that Petitioner must exhaust administrative remedies while also claiming that his detention classification precludes him from obtaining a bond hearing. These positions cannot logically coexist.

Respondents rely on *Alonso Portillo v. Bondi*, Case No. 1:25-cv-306, at 6 (S.D. Ohio Aug. 28, 2025), suggesting it demonstrates the necessity of exhausting administrative remedies. But that case is materially distinguishable: it was decided prior to *Matter of Yajure Hurtado*, and the petitioner in *Portillo* actually received a bond hearing because the IJ never denied jurisdiction.

In contrast, Petitioner here faces a systemic bar imposed by the BIA’s precedent, further reinforced by the EOIR’s nationwide directive to continue denying bond jurisdiction, despite class-action challenges in California, Washington, and Michigan. Given these circumstances, requiring administrative exhaustion would serve no purpose other than to delay relief, as the administrative remedies are unavailable and futile. Petitioner is therefore entitled to bypass administrative exhaustion and seek relief directly in this Court.

Finally, declarations from Ohio immigration practitioners confirm that the Cleveland Immigration Court continues to deny jurisdiction over bond hearings, underscoring the futility of any administrative effort.

Administrative exhaustion is not required where, as here, the petitioner has no realistic possibility of obtaining relief through the administrative process. The futility of administrative

remedies is clear, and judicial intervention is the only meaningful avenue for protecting Petitioner's rights.

III. Petitioner is detained under 8 U.S.C. § 1226.

Respondents erroneously claim that Petitioner is detained under 8 U.S.C. § 1225 because he is allegedly an “admission seeker” who has not been formally admitted into the United States. (Return of Writ, ECF 6, PageID 55–56). Their interpretation improperly conflates aliens who are actively seeking entry at a port of entry with noncitizens already present in the country. Under this view, both arriving aliens and aliens physically present without formal admission are treated as “applicants for admission,” which contradicts the Supreme Court’s clear holding that § 1226 applies to aliens already present in the United States. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (“As noted, § 1226 applies to aliens already present in the United States”).

Courts in the Sixth Circuit and elsewhere have repeatedly rejected Respondents’ expansive interpretation of § 1225. In *Morales Chavez v. Director of Detroit Field Office*, 4:25-cv-2061, at 10–12 (N.D. Ohio Nov. 14, 2025), the court held that Congress intended the term “seeking admission” to describe an active attempt to enter the United States, not the mere presence of an alien already inside the country. Similarly, the Western District of Michigan recognized in *Carmona v. Noem*, 1:25-cv-1131, at 13 (Oct. 24, 2025), and *Sanchez v. Noem*, 1:25-cv-1361, at 18 (Nov. 20, 2025), that an alien who has already entered is not actively seeking admission and therefore cannot be treated as a § 1225 detainee.

Other courts have reinforced this distinction. In *Lopez v. Raycraft*, 4:25-CV-2449, at 9 (N.D. Ohio Nov. 25, 2025), the court noted that § 1226 “serves as a catchall applicable to noncitizens already in the country, pending the outcome of removal proceedings.” In *Godinez-*

Lopez v. Ladwig, 2:25-cv-02962-SHL-ATC, at 10 (W.D. Tenn. Oct. 31, 2025), and *Roman v. Olson*, 25-169-DLB-CJS, at 7 (E.D. Ky. Nov. 24, 2025), courts confirmed that § 1225 governs only “arriving aliens,” whereas § 1226 governs detention of those already present. Even more recently, the Western District of Kentucky in *Barrera v. Tindall*, 3:25-cv-541-RGJ, at 8 (Sep. 19, 2025), applied the interpretive method of *Yates v. United States*, 574 U.S. 528, 552 (2015), noting that the term “arriving” in § 1225’s title signals that it applies only to aliens physically seeking entry at the border. This reasoning was reaffirmed in *Singh v. Lewis*, 4:25-cv-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sep. 22, 2025), underscoring that Respondents’ reliance on § 1225 is inconsistent with statutory text and judicial interpretation. Accordingly, Petitioner is properly detained under § 1226, not § 1225.

CONCLUSION

For the foregoing reasons, this Court has jurisdiction to grant habeas relief and should either release the Petitioner or, alternatively, order the Respondent to provide a bond hearing.

Respectfully submitted,

___/s//Alisher Kassym/___

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DECLARATION OF NAZLY MAMEDOVA, Esq.

**UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

I, NAZLY MAMEDOVA, hereby declare and state as follows:

1. I am an attorney at law licensed to practice in the State of **Kentucky**. My business address is **11260 Chester Rd, Ste 310, Cincinnati, OH 45246**.
2. I have been practicing immigration law for approximately **10** years. I am a member in good standing of the bar.
3. My practice primarily involves representing noncitizens in removal proceedings before the Executive Office for Immigration Review (EOIR). I regularly appear before the Immigration Courts in **Chicago, IL; Cleveland, OH; Conroe, TX; Memphis, TN; Indianapolis, IN, New York, NY and others**.
4. I represent, or have attempted to represent, numerous noncitizens who entered the United States without inspection (EWI) and were subsequently apprehended by immigration officials within the interior of the United States.
5. Following the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and the Department of Homeland Security's related policy guidance, I have observed a systemic shift in how Immigration Judges adjudicate custody for this category of respondents.
6. Specifically, in **multiple** cases involving clients who were apprehended in the interior of the United States, I have filed Motions for Custody Redetermination (Bond) pursuant to 8 U.S.C. § 1226(a), arguing that my clients are entitled to an individualized assessment of flight risk and danger to the community.
7. In response to these motions, Immigration Judges in the **Cleveland, OH; Conroe, TX; Memphis, TN; and Indianapolis, IN** Immigration Court have:

Denied the motion for bond categorically, issuing orders stating that the Immigration Judge lacks jurisdiction to redetermine custody because the respondent is an "applicant for admission" detained under 8 U.S.C. § 1225(b)(2), citing *Matter of Yajure-Hurtado*.

8. Based on my direct experience and practice before these Immigration Courts, it is my professional assessment that filing further requests for bond hearings for similarly situated clients (interior apprehensions classified as "arriving aliens") is futile. The Immigration Judges consider themselves bound by *Matter of Yajure-Hurtado* to deny jurisdiction, regardless of the individual equities or facts of the respondent's case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **November 25, 2025**.

Nazly Mamedova

Digitally signed by Nazly Mamedova

Date: 2025.11.25 12:11:48 -05'00'

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DECLARATION OF VIRAB KHACHATRYAN

United States District Court Southern District of Ohio Western Division

I, **VIRAB KHACHATRYAN**, hereby declare and state as follows:

1. I am an attorney at law licensed to practice in the State of **New York**. My business address is **11260 Chester Road, Cincinnati, Ohio 45246**.
2. I have been practicing immigration law for approximately **one** year. I am a member in good standing of the bar.
3. My practice primarily involves representing noncitizens in removal proceedings before the Executive Office for Immigration Review (EOIR). I regularly appear before the Immigration Courts in **Cleveland, OH**.
4. I represent, or have attempted to represent, numerous noncitizens who entered the United States without inspection (EWI) and were subsequently apprehended by immigration officials within the interior of the United States.
5. Following the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and the Department of Homeland Security's related policy guidance, I have observed a systemic shift in how Immigration Judges adjudicate custody for this category of respondents.
6. Specifically, in **four** cases involving clients who were apprehended in the interior of the United States, I did not file Motions for Custody Redetermination (Bond) pursuant to 8 U.S.C. § 1226(a), considering that, after thorough investigation, discussion with other attorneys, and conversation with other detainees, it was not moral or of good faith to charge clients for a Motion that was very unlikely to succeed.
7. Based on my direct experience and practice before these Immigration Courts, it is my professional assessment that filing further requests for bond hearings for similarly situated clients (interior apprehensions classified as "arriving aliens") is futile. The Immigration Judges consider themselves bound by *Matter of Yajure-Hurtado* to deny jurisdiction, regardless of the individual equities or facts of the respondent's case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **12/08/2025**.

Virab Khachatryan Law Office of Nazly Mamedova

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

I, attorney Anna A. Korneeva, hereby declare and state as follows:

1. I am an attorney at law licensed to practice in the States of Ohio and Kentucky. My business address is 810 Sycamore St., Floor 3, Cincinnati, OH 45202.
2. I have been practicing immigration law for approximately 6 years. I am a member in good standing of the bar.
3. My practice involves representing noncitizens in removal proceedings before the Executive Office for Immigration Review (EOIR). I regularly appear before the Immigration Court in Cleveland, OH.
4. I represent, or have attempted to represent, numerous noncitizens who entered the United States without inspection (EWI) and were subsequently apprehended by immigration officials within the interior of the United States.
5. Following the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and the Department of Homeland Security's related policy guidance, I have observed a systemic shift in how Immigration Judges adjudicate custody for this category of respondents.
6. Specifically, in cases involving Respondents who were apprehended in the interior of the United States, I observed other attorneys argue Motions for Custody Redetermination (Bond) pursuant to 8 U.S.C. § 1226(a), arguing that their clients are entitled to an individualized assessment of flight risk and danger to the community.
7. In response to these motions, I observed that the Immigration Judges in the Cleveland Immigration Court have denied the motions for bond categorically, issuing orders stating that the Immigration Judge lacks jurisdiction to redetermine custody because the respondent is an "applicant for admission" detained under 8 U.S.C. § 1225(b)(2), citing *Matter of Yajure-Hurtado*.
8. Based on my experience and practice before the Cleveland Immigration Court, as well as based on the experience of my colleagues, it is my professional assessment that filing further requests for bond hearings for similarly situated clients (interior apprehensions classified as "arriving aliens") is futile. The Immigration Judges consider themselves bound by *Matter of Yajure-Hurtado* to deny jurisdiction, regardless of the individual equities or facts of the respondent's case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 8, 2025.



Anna A. Korneeva, Esq.