

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

<p><b>EVANGELINA MORALES,</b> Individually and on behalf of all others similarly situated,</p> <p style="text-align: center;"><i>Petitioner,</i></p> <p>v.</p> <p><b>PAMELA BONDI, ET. AL.,</b></p> <p style="text-align: center;"><i>Respondents.</i></p>	<p>CASE NO. 1:25-CV-01472 Honorable Hala Y. Jarbou</p>
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**REPLY TO RESPONSE IN OPPOSITION**

**INTRODUCTION**

There are several central facts that control this case: Petitioner has lived in the United States for more than two decades, entered as a child, is raising four U.S.-citizen daughters, and was apprehended in the interior of Michigan in October 2025. Respondents cannot and have not attempted to meaningfully contest that, for nearly thirty years, individuals in Petitioner’s exact posture have been detained, if at all, under 8 U.S.C. § 1226(a), with the right to a bond hearing before an immigration judge. (Pet. ¶¶ 29–39, PageID 10-13). Rather than address the illegality of the government’s abrupt abandonment of that long-settled interpretation, Respondents invoke a series of threshold arguments in an effort to avoid judicial review. None of their attempts have merit.

Respondents' exhaustion argument fails because no administrative path exists: *Matter of Yajure-Hurtado* categorically strips immigration judges of jurisdiction to hear bond requests from individuals like Petitioner. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) Inexplicably, Respondents still insist § 1225(b)(2)(A) applies simply because she entered without inspection decades ago, an interpretation precluded by statutory text, regulations, and decades of uniform practice. They then claim she has received due process because she "may request a bond hearing," even though the agency itself has eliminated that jurisdiction. Due process does not tolerate illusory procedures, particularly where the deprivation of freedom lies "at the heart of the liberty the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001). Yet Respondents seem to be satisfied with representing to the courts and the country at large that this phantom judicial equity should be sufficient when guarding inalienable rights.

Respondents next argue the APA is unavailable because she challenges detention rather than final agency action, but her petition squarely challenges the July 8, 2025 DHS directive and *Yajure-Hurtado*, which bind immigration judges, dictate classification, and carry immediate legal effect. Their position that the Suspension Clause is irrelevant is baffling: Petitioner seeks core habeas relief of release or, at minimum, a constitutionally required bond hearing. Finally, Respondents' contention that only the local Field Office Director is a proper respondent is incorrect as this action challenges nationwide policies created and enforced by DHS and EOIR leadership, all of whom are proper respondents.

Recent persuasive authority directly undermines Respondents' interpretation. In a comprehensive Partial Summary Judgment Order, the Central District of California held that DHS's July 2025 reinterpretation of § 1225(b)(2) is unlawful, "contrary to the statutory text, structure, and design of the INA," and inconsistent with nearly three decades of agency practice.

*Maldonado Bautista v. Santacruz Jr.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. November 20, 2025).

The court found that § 1226, not § 1225, governs detention of long-term interior residents. *Id.* Likewise, in granting class certification, the court reaffirmed that individuals identically situated to Petitioner are statutorily entitled to bond eligibility under § 1226, and that DHS's new policy unlawfully strips them of that right. *Id.* These decisions directly reject Respondents' statutory, exhaustion, due process, and jurisdictional arguments.

While the Central District of California has certified a nationwide class including Petitioner, continued litigation in this District is essential. The *Bautista* court granted declaratory relief but lacks habeas jurisdiction over Petitioner's immediate custodians in Michigan. Respondents continue to detain Petitioner in violation of law despite the *Bautista* order. A Writ of Habeas Corpus from *this* Court is the only mechanism to secure her immediate release or hearing and enforce the rights declared in *Bautista* against the specific officials holding her in Baldwin.

Plainly, Respondents offer no reasonable justification for detaining Petitioner as though she were an applicant for admission at a port of entry. Their opposition relies on the same misclassification that dozens of federal courts have rejected, and it ignores the sweeping constitutional consequences of denying an entire population access to any form of custody review. As Petitioner is detained under the wrong statute, has been denied the bond hearing that § 1226(a) and the Due Process Clause guarantee, and faces ongoing unlawful confinement that only this Court can remedy, the petition for habeas corpus must be granted.

## ARGUMENT

### **A. Petitioner Is Not Required to Exhaust Administrative Remedies Because Exhaustion Would Be Futile, Is Not Statutorily Required, and Cannot Apply Where the Agency Has Categorically Foreclosed Relief.**

Respondents' exhaustion theory depends on an administrative path that does not exist. Although they claim Petitioner could seek a bond hearing and then appeal to the BIA, the government's own policy categorically strips immigration judges of bond jurisdiction over individuals like Petitioner. The government cannot demand exhaustion while simultaneously eliminating the remedy it says Petitioner must pursue. Section 2241 imposes no statutory exhaustion requirement. Courts do not require a futile ritual for the sake of formality.

Respondents go on to misconstrue *Leonardo v. Crawford*, *Rabi v. Sessions*, and similar cases. Those decisions involved petitioners who received an actual bond hearing from an immigration judge with jurisdiction, after which BIA review was available. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). In that context exhaustion was required because the agency could provide relief. Here, Petitioner challenges her detention precisely because immigration courts cannot provide bond hearings at all. *Yajure-Hurtado* bars jurisdiction in the first instance, eliminating the administrative path Respondents describe. Judges in this District have already recognized that exhaustion is unwarranted under these circumstances. See *Sanchez Alvarez v. Noem*, 2025 WL 2942648, at \*3 (W.D. Mich. Oct. 17, 2025); *Hernandez Garcia v. Raycraft*, 2025 WL 3122800, at \*5 (W.D. Mich. Nov. 7, 2025); *Rodriguez Carmona v. Noem*, 2025 WL 2992222, at \*4 (W.D. Mich. Oct. 24, 2025). Crucially, this Court has already recognized in *Mendez v. Raycraft* that exhaustion is not required where the legal issue is

predetermined. Requiring Petitioner to formally request a bond hearing just to receive a pre-written denial order based on *Yajure-Hurtado* serves no purpose other than delay.

Respondents also misapply the prudential exhaustion factors. The first factor of agency expertise has no role where the issue is a pure question of law: whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's detention. That question requires no factual development, and the BIA cannot reconsider *Yajure-Hurtado* in an individual case. The second factor of avoiding bypass of the administrative scheme likewise fails because there is no available scheme to bypass; Respondents have closed every administrative door. The third factor of whether the agency could correct its own mistake underscores the futility: *Yajure-Hurtado* categorically predetermines the outcome. The government has created an executive ouroboros, where the remedy prescribed is consumed by the unlawful actions of the agency itself. Even if an immigration judge accepted a bond request, the BIA would be bound to reverse. Requiring Petitioner to attempt this empty exercise would only prolong unlawful detention in violation of the Constitution.

Most importantly, the affidavits submitted with this reply confirm what Respondents refuse to acknowledge: there is no administrative path for Petitioner to exhaust. Sworn declarations from immigration attorneys practicing in over **twenty-five jurisdictions**—including Baltimore, Chicago, Cleveland, Detroit, El Paso, Los Angeles, and New York—demonstrate that exhaustion is not merely futile; it is structurally impossible. See Exhibit 1 (Various Affidavits). Immigration Judges (IJs) nationwide are uniformly interpreting *Matter of Yajure-Hurtado* and the July 8, 2025 DHS directive as a complete jurisdictional bar.

The attached evidence reveals a disturbing pattern of categorical denial. Attorneys attest that IJs are not only denying bond but are refusing to **even schedule hearings** or **accept**

**evidence** regarding equities, explicitly stating that such facts are 'irrelevant' because their hands are legally tied. See Decl. of M. Bykova at ¶7 (IJ refused to schedule hearings entirely); Decl. of J. Binnall at ¶7 (IJ refused to accept evidence of community ties). In one egregious instance, an IJ refused to grant bond **even after a federal district court issued a Temporary Restraining Order** directing a hearing, stating on the record that while he *would* grant a \$5,000 bond if he had authority, he remained bound by *Yajure-Hurtado* to deny jurisdiction. See Decl. of L. Angeles at ¶8 & Ex. A (Transcript of Bond Hearing).

This record proves that the administrative remedy Respondents insist upon is a mirage. No IJ will hear Petitioner's bond request on the merits, and the BIA will not review a decision IJs are forbidden to make. To require exhaustion in the face of such predetermined, systemic rejection would be to demand a 'futile ritual' that serves only to prolong Petitioner's unlawful detention.

**B. Petitioner Is Not Properly Detained Under § 1225(b)(2), and Respondents' Interpretation Misrepresents the Statutory Text, Structure, History, and Purpose of IIRIRA.**

Respondents insist that § 1225(b)(2) mandates detention of anyone present in the United States without admission, but this reading ignores the text and function of § 1225. Section 1225(a)(3) governs inspection of individuals "seeking admission" at or near the time they present themselves for entry, and § 1225(b)(2) applies only when an "examining immigration officer determines" during that inspection that an individual is not "clearly and beyond a doubt entitled to be admitted." The entire scheme presumes a contemporaneous inspection, something that never occurs when DHS encounters a person already living in the interior. As the *Bautista* court held, the mandatory detention provision of § 1225(b)(2) contains a specific factual predicate: a

determination by an 'examining immigration officer' regarding admissibility. In Petitioner's case, she entered in 2001. There is no evidence in the record that an 'examining immigration officer' made any determination at that time. DHS cannot satisfy this statutory condition precedent twenty-four years later by creating a convenient legal fiction.

Petitioner was not referred for inspection, not stopped at a port of entry, and not processed under § 1225(a). She was issued a Notice to Appear initiating § 1229a removal proceedings governed by § 1226(a). Nothing in the INA permits DHS to retroactively convert a decades-old entry into an "ongoing inspection" to impose border-style detention. (Pet. ¶¶ 29–39, 43–56. PageID 10-17). Respondents rely on § 1225(a)(1)'s definitional clause deeming certain individuals "applicants for admission," but they blur the line between being labeled an applicant and undergoing inspection as one. Section 1225's detention provisions are triggered only by an actual inspection by an "examining immigration officer," not by DHS's later encounter with a long-term resident.

Respondents further argue that anyone "seeking to remain" is "seeking admission," but "seeking admission" is a term of art limited to presenting oneself for inspection, not to remaining in the United States during removal proceedings. While the government is likely delighted by the prospect of twisting settled law and basic language to fit their own agenda, it is the proverbial forcing a square peg into a round hole and the Court should be skeptical of such reasoning. Congress could have drafted § 1225(b)(2) to cover "any alien present without admission." It did not. Mandatory detention turns on a determination made during inspection, not on DHS's preferred reclassification. The government's interpretation fails to account for Congress's choice to use the active term "seeking" in describing those immigrants covered by § 1225(b)(2). "Seeking" "implies action[.]" *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486 at \*6, 2025 WL

2496379, at \*6 (E.D. Mich. Aug. 29, 2025); see also *Sumba v. Crowley*, No. 1:25-cv-13034, 2025 WL 3126512, at \*4 (N.D. Ill. Nov. 9, 2025) (“a present participle stated in the progressive tense [] implies some ongoing, affirmative action[.]” (emphasis in original)).

Nor does Respondents’ claim that § 1226(a) remains applicable only to admitted noncitizens align with statutory design. Section 1226(a) governs the overwhelming majority of removal cases, including all interior arrests of noncitizens whether they entered lawfully or unlawfully. Their reliance on § 1226(c) or the Laken Riley Act is misplaced; those provisions expand mandatory detention for specified criminal categories, not for long-term residents who are not undergoing inspection.

Finally, Respondents’ argument that parole under § 1182(d)(5) is Petitioner’s sole release mechanism assumes she is properly detained under § 1225(b)(2). She is not. Under the correct framework of § 1226(a), immigration judges retain bond authority. Parole is not a substitute for individualized custody review and cannot constitutionally replace bond hearings.

**C. Petitioner’s Mandatory, Indefinite Civil Detention Grossly Violates Due Process.**

Respondents’ due process argument relies on incorrect readings of Supreme Court precedent and a misunderstanding of the protections owed to long-term residents arrested inside the United States. *Shaughnessy v. United States ex rel. Mezei* and *Kaplan v. Tod* involved returning individuals stopped at the border; *Thuraissigiam* involved a recent entrant apprehended within yards of the border and placed in expedited removal. *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953); *Kaplan v. Tod*, 267 U.S. 228 (1925); *DHS v. Thuraissigiam*, 591 U.S. 103 (2020). None concerned an individual like Petitioner, who has lived in the United States for decades, developed deep constitutional ties, and is in full § 1229a proceedings.

For more than a century, the Supreme Court has held that once a noncitizen enters the country and is found within the United States, they are entitled to greater protections than those turned away at the border. *The Yamataya v. Fisher*, 189 U.S. 86 (1903). Respondents cite *Yamataya* selectively while ignoring its core holding: interior residents, even if they entered unlawfully, are owed meaningful due process. “Therefore it is not competent for the Secretary of the Treasury or any executive officer, at any time within the year limited by the statute, arbitrarily to cause an alien who has entered the country, and has become subject in all respects to its jurisdiction, and a part of its population, although alleged to be illegally here, to be taken into custody and deported without giving him all opportunity to be heard upon the questions involving his right to be and remain in the United States.” *Id.*

Respondents assert that because Petitioner “has not been admitted,” she receives only the minimal process afforded to arriving aliens. That is patently false. The Fifth Amendment protects “all persons” within the United States, *Zadvydas*, 533 U.S. at 693, and especially those who, like Petitioner, have lived here for many years and established substantial connections. Courts in this District have repeatedly rejected the government’s due process theory in cases involving long-term residents classified under § 1225(b)(2). See *Hernandez Garcia v. Raycraft*, 2025 WL 3122800, at 6 (W.D. Mich. Nov. 7, 2025); *Sanchez Alvarez v. Noem*, 2025 WL 2942648, at 7 (W.D. Mich. Oct. 17, 2025); *Rodriguez Carmona v. Noem*, 2025 WL 2992222, at 6 (W.D. Mich. Oct. 24, 2025).

Respondents’ claim that Petitioner has “access to counsel,” “notice,” and “may request a bond hearing” is not only incorrect, it makes a mockery out of due process. She cannot request a bond hearing because *Yajure-Hurtado* removes immigration judge jurisdiction for individuals categorized under § 1225(b)(2). The availability of removal proceedings does not satisfy due

process where the detention itself is unlawful, and Respondents' assertion that detention has been "brief" ignores the open-ended nature of custody in this situation, something *Demore* explicitly warned against. 538 U.S. at 529.

Courts evaluating prolonged interior detention consistently apply the factors under *Mathews v Eldridge*. See *Santiago Santiago v. Noem*, 3:25-cv-00361-KC (W.D. Tex. October 1, 2025). All three factors compel relief: (1) Petitioner's liberty interest is at the core of the Due Process Clause; (2) the risk of erroneous deprivation is high because she has been misclassified under § 1225(b)(2) and denied any chance to show lack of danger or flight risk; and (3) the government's interests are fully protected by a bond hearing- the mechanism Congress authorized in § 1226(a) for § 1229a cases. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, due process requires at least one meaningful bond hearing.

#### **D. Respondents Misconstrue Petitioner's APA Claims and the Scope of Habeas Review**

Respondents argue that Petitioner's APA claims are "not properly before the Court," but that position reflects a misunderstanding of both the petition and the APA. Petitioner is not pursuing a freestanding APA lawsuit or seeking summary judgment on a final rule. She invokes the APA in the limited way habeas permits: to show that the statutory interpretation underlying her detention is unlawful, ultra vires, and contrary to the INA. The APA provides interpretive standards for evaluating the legality of detention; it is not an independent cause of action here.

Respondents incorrectly assume Petitioner filed a "hybrid" APA-habeas action. She did not. Every requested remedy—release and declaratory clarification of the statutory basis for detention—falls squarely within habeas. Habeas courts routinely use APA § 706 standards when determining whether an agency has acted "contrary to law" or "in excess of statutory

jurisdiction.” Doing so does not convert the case into an APA suit; it applies settled principles permitting habeas courts to reject unlawful interpretations embedded in detention decisions.

Respondents’ reliance on the Order to Show Cause is also misplaced. The Court directed them to explain why “the writ of habeas corpus and other relief requested in the petition should not be granted.” (Order to Show Cause, PageID.44–45). The “other relief” includes declaratory findings that DHS’s statutory theory is unlawful, and such findings are fully consistent with habeas practice and supported by the APA’s requirement that agencies act within statutory bounds.

Petitioner has not attempted to simultaneously pursue a distinct APA remedy. She has not sought rulemaking, an administrative record, or any relief available only under § 702. She seeks only release and a declaration that DHS’s detention is contrary to the statute. The APA argument simply explains why DHS’s July 2025 policy shift is invalid and cannot support detention. Respondents misread § 704 and *Trump v. J.G.G.* 145 S. Ct. 1003 (2025). Section 704 bars freestanding APA suits where habeas provides complete relief; it does not bar habeas petitioners from invoking APA principles.

*J.G.G.* held only that petitioners seeking release must proceed via habeas, not a standalone APA action. *Id.* Petitioner has done exactly that. The APA therefore remains available as an interpretive framework for determining whether detention is lawful. Respondents’ theory would mean habeas courts could not consider whether DHS acted arbitrarily or beyond statutory authority, even when detention rests on a plainly unlawful interpretation.

**E. The Suspension Clause Squarely Protects Petitioner’s Habeas Challenge to the Lawfulness of Her Detention.**

Respondents mischaracterize Petitioner’s claim as a challenge to removal, rather than detention, in an effort to place her outside the protection of the Suspension Clause. This is incorrect. The petition challenges her ongoing physical restraint, the statutory basis for that custody, and the government’s assertion that she is a mandatory-detention “applicant for admission” without access to bond. The Supreme Court’s decision in *Thuraissigiam* does not limit the Suspension Clause to removal-related claims. Rather, the Court held that the Suspension Clause historically protects “core” habeas claims seeking release from unlawful custody. 591 U.S. at 119–21. That is exactly what Petitioner seeks: release from unlawful mandatory detention under a misapplied statute. The petition neither challenges her removal order nor seeks relief from expedited-removal procedures; instead, it challenges her present detention. Nor is Petitioner barred from invoking constitutional protections due to the manner of her entry. Courts in this district and across the country have repeatedly held that § 1225(b)(2) detention of long-term residents arrested in the interior (far outside the border-control context of *Thuraissigiam*) triggers full habeas review. See, e.g., *Hernandez Garcia v. Raycraft*, 2025 WL 3122800, at \*6 (W.D. Mich. Nov. 7, 2025).

**F. Multiple Federal Respondents Are Proper Because the Petition Challenges Both Custody and the Legal Authority Underlying that Custody.**

This case challenges DHS’s July 2025 policy shift, the nationwide interpretation of § 1225(b)(2), and the federal executive officials who promulgated and enforce that interpretation. The Sixth Circuit recognizes that in immigration habeas petitions “extraordinary circumstances” justify naming higher-level officials when they possess ultimate authority over detention policy or the statutory interpretation being challenged. *Roman v. Ashcroft*, 340 F.3d 314, 320–22 (6th

Cir. 2003). That is precisely the situation here: the detention flows directly from federal policy decisions issued at the highest levels of DHS and the Attorney General.

Respondents fail to identify any prejudice or practical impediment created by the presence of additional federal respondents. Their inclusion ensures that the individuals responsible for the policy and statutory interpretation at issue are properly before the Court. This Court expressly rejected Respondents' attempt to dismiss high-level officials in *Mendez*. The Court retained Secretary Noem as a respondent specifically to ensure authority to enforce relief in the event of transfers. *Mendez*, Slip Op. at 13-14. The same logic applies here: dismissing the policymakers who mandated this unlawful detention regime would frustrate the Court's ability to grant complete relief, particularly given ICE's practice of moving detainees between districts.

**G. Declaratory Relief Is Necessary for Petitioner and the Putative Class.**

The need for declaratory relief in this case is underscored by the parallel class litigation now pending in the Central District of California, where the court has already issued two comprehensive rulings rejecting the very statutory arguments Respondents advance here. In *Maldonado Bautista v. Santacruz*, the court granted partial summary judgment, holding that DHS's July 8, 2025 directive is unlawful because it "contradicts the statutory text, structure, and design of the INA" and impermissibly reclassifies long-term interior residents as "applicants for admission" subject to mandatory detention under § 1225(b)(2). *Maldonado Bautista v. Santacruz Jr.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. November 20, 2025). The court found that such reclassification "collapses the INA's carefully drawn distinction between border processing and interior arrest" and unlawfully strips individuals of their statutory entitlement to bond hearings under § 1226(a). *Id.* That reasoning applies with equal force here, where Petitioner is detained on the basis of the very policy the California court found unlawful.

The same court also certified a nationwide “Bond Eligible Class,” encompassing all noncitizens present in the United States without lawful status who entered without inspection, were apprehended in the interior, and are not subject to detention under §§ 1225(b)(1), 1226(c), or 1231. *Id.* In granting certification, the court held that the July 2025 DHS directive operates as a single unlawful, system-wide policy applied uniformly to all putative class members, and that declaratory and injunctive relief under Rule 23(b)(2) is not only appropriate but essential to protect the due-process rights of thousands of similarly situated individuals. *Id.* The court rejected the government’s argument that § 1252 bars such relief, finding instead that individuals in Petitioner’s posture are detained under § 1226(a) and thus remain entitled to bond determinations. *Id.*

Petitioner is squarely within the class definition and suffers the same unlawful injury: reclassification as an “applicant for admission” decades after her childhood entry, denial of bond eligibility, and confinement under a detention statute that does not apply to her. A declaratory judgment from this Court would therefore not only provide complete relief to Petitioner, but also harmonize this District’s rulings with the developing national jurisprudence recognizing that DHS’s July 2025 reinterpretation is unlawful. As the California court emphasized, only declaratory relief can prevent the government from continuing to apply a legally erroneous and unconstitutional statutory framework to thousands of long-term residents arrested in the interior. Even more pressing is the fact that the Court must send a strong message to the government: that its attempts to warp plain language and readings of statutes, case law, and judicial orders will not be tolerated.

Respondents may argue that the *Bautista* nationwide certification renders this action moot or duplicative. This is incorrect. As the Supreme Court held in *Rumsfeld v. Padilla*,

jurisdiction for core habeas relief lies in the district of confinement with the “ immediate custodian”. 542 U.S. 426, 434-435 (2004). A declaratory judgment from California, while authoritative on the law, does not carry the coercive power of a Writ of Habeas Corpus directed at Respondents Raycraft and Dunbar. Without a specific order from this Court, Petitioner remains in a legal limbo wherein a member of a victorious class in California, yet physically detained in Michigan by officials who refuse to honor that ruling. This petition is the necessary enforcement mechanism for the rights established in *Bautista*.

### CONCLUSION

For all these reasons, Respondents’ opposition offers no lawful basis to continue treating Petitioner, as if she were an arriving alien subject to mandatory border detention. The statutory text, decades of uniform practice, persuasive authority from multiple federal courts, and the Constitution all make clear that her detention must be governed by § 1226(a) and accompanied by a meaningful bond hearing. As exhaustion is impossible, due process is being violated, and DHS’s July 2025 policy shift is both ultra vires and unconstitutional, this Court is the only forum capable of providing relief. Petitioner respectfully requests that this Court grant her immediate release, or in the alternative, order Petitioner's prompt bond hearing before an immigration judge.

Respectfully Submitted,

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