UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

SARA MARIA REYES-MARTINEZ Petitioner, v. KRISTI NOEM, in her Official Capacity as Secretary, Department of Homeland Security; TODD LYONS, in his Official Capacity as Acting Director, U.S. Immigration and Customs Enforcement; PAM BONDI, in her Official Capacity as Attorney General of the United States; and Jason Woosley, in his Official Capacity as Grayson County Jailer Respondents.	Case No. 4:25-cv-00150-RGJ **PETITION FOR WRIT OF HABEAS CORPUS**

REPLY TO RESPONDENTS' MOTION TO DISMISS

The Petitioner, by and through Counsel, moves this Court to deny the Respondents' Motion to Dismiss and grant this Petition for Writ of Habeas Corpus.

I. Introduction

The Federal Respondents use a template response to argue incorrectly argue that this court lacks jurisdiction and the Petitioner is subject to 8 U.S.C. § 1225. They continually misclassify non-citizen who have entered without inspection arrested in the interior of the United States as "applicants for admission." The Respondents' argument has been denied nationwide by the federal district courts. The Respondents rely on the Board of Immigration Appeal (BIA) ruling in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 223 (BIA 2025). This case was overturned in

part in a nationwide injunction issued by the Central District Court of California in *Baustista v. Santacruz,* No. 5:25-cv-01973-SSS-BFM (C.D. Cal. 2025).[1]

II. Relevant Facts

The Petitioner was detained by United States Custom and Border Protection (CBP) on May 10, 2023 at Eagle Pass, Texas, while entering the United States. [DN 5-2]. She was vetted, served a Notice to Appear, and released into the United States. *Id.* She was charged removable under 212(a)(6)(A)(i) of the immigration and Nationality Act (INA)[2]. *Id.* Specifically, she was classified as an alien present in the United States without being admitted or paroled. She was ordered to appear at 525 W. Van Buren, Suite 500, Chicago, IL on October 3, 2023, at 9:00 am. She remained in the United States over the next two years.

On November 5, 2025, she went to a routine check in with ICE. They unlawfully detained her. The United States presented two exhibits in their Motion To Dismiss and Response to Order to Show Cause ("Motion to Dismiss") that are relevant to her detainment on November 5, 2025: the Warrant for Alien Arrest (I-200) [DN 5-3], and Record of Deportable/Inadmissible Alien (I 213)[DN 5-1]. The Warrant for Alien Arrest is dated from November 5, 2025. [DN 5-3].[3] The Warrant states that Officer Mercer determined that there is probable cause to believe that Reyes-Martinez, Sara is removable from the United States. *Id.* This determination is based upon the pendency of ongoing removal proceedings against the subject. I*d.* The I-200 commands the

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[1] Two rulings from *Baustista v. Santacruz,* No. 5:25-cv-01973-SSS-BFM (C.D. Cal. 2025) are attached as exhibits. Exhibit 1, (IN CHAMBERS) ORDER GRANTING PLAINTIFF PETITIONERS' MOTION FOR CLASSCERTIFICATE [DKT.NO.41] and Exhibit 2, ORDER GRANTING PETITIONERS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DENYING REQUEST TO ENTER FINAL JUDGMENT [DKT.NO.42].

[2] 8 U.S.C. §1182(a)(6)(A)(i)

[3] The United States only presented the most recent I-213 issued November 6, 2025, this is one of two I-213s. They are in possession of the initial I-213 from October 2023, is not presented into evidence, and it is not in the possession of the respondent.

arrest and custody of the Petitioner. [DN 5-3]. The document does not indicate that Sara ever violated any of the terms of her supervision in the United States. *Id.*

The I-213 was drafted and signed by officer "V. Atkins." *Id.* It consists of three (3) pages: the fist page was drafted on November 5, 2025; pages two (2) and three (3) were executed on November 6, 2025. *Id.* The first paragraph on page two indicates that she will remain in custody pending detained removal proceedings with EOIR. *Id.*

This document does not indicate that Sara ever violated the terms of her supervision. It indicates that she does not have any criminal history. [DN 5-1, pg 2 of 4]. The document indicates that she was actively in removal proceedings. She was issued a work authorization on August 19, 2025, that was due to expire on September 3, 2030. *Id.*

III. This Court Maintains Jurisdiction

The United Staes illegally detained the Petitioner on November 5, 2025. This Court maintains jurisdiction of the illegal detention and continued illegal detention of Sara due to the substantial constitutional violations. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.

The U.S. Supreme Court has recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law. Even though the government may detain individuals during removal proceedings, *Denmore v. Kim*, 538 U.S. 510, (2003), (although that case involved detention under §1226(c) of certain criminal aliens)

there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government's power to detain noncitizens. It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306, (1993). Courts must review immigration procedures and ensure that they comport with the Constitution.

Federal courts have retained the statutory authority to grant writs of habeas corpus since enactment of the Judiciary Act of 1789. In *Felker v. Turpin*, 518 U.S. 651 (1996), the Supreme Court declined to find a repeal of § 2241 by implication as to its original habeas corpus jurisdiction. See also *Boumediene v. Bush,* 553 U.S. 723 (2008). In addition to the Supreme Court in many cases, all Circuit Courts of Appeals have recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law.

In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, violations of the *Accardi* doctrine, and other injuries without notice or opportunity to be heard. These claims fall squarely within the scope of habeas review preserved by statute and recognized by controlling precedent. Accordingly, this Court has both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.

Petitioner's claims challenge only his civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)'s channeling provision. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (detention challenges are not "questions of law or fact arising from" removal proceedings).

Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner's release under § 1226(a) or barring application of § 1225 as to Petitioner —and does not "enjoin or restrain the operation" of any statute within § 1252(f)(1)'s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts' authority to "enjoin or restrain the operation" of the INA's detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief "with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as-applied relief tailored to Petitioner —e.g., directing Petitioner's release under § 1226(a) or precluding DHS from enforcing the "arriving alien" definition of § 1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)'s carve-out.

Section 1252(g) is likewise inapplicable. It is a "narrow" jurisdictional bar that applies only to three discrete decisions or actions: "to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS's use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention-related claims and challenges to custody procedures fall outside § 1252(g). *See id.* at 482–83; cf. *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (§ 1252(b)(9) does not channel detention claims).

Section 1252(e)(3) is likewise inapplicable as it is narrowly tailored to channel systemic or facial challenges to the validity of the expedited removal "system" or its implementing regulations and written policies to the U.S. District Court for the District of Columbia, and only within 60 days of implementation. It does not bar as-applied, individualized habeas challenges to the legality or constitutionality of a particular noncitizen's detention under § 1225(b)(2) or whether § 1225 governs Petitioner's detention or § 1226. The text of § 1252(e)(3) is explicit: it covers "[c]hallenges on the validity of the system" and review of "whether such a regulation, or a written policy directive, written policy guideline, or written procedure ... is not consistent with applicable provisions of this title or is otherwise in violation of law." It does not preclude review of the legality of detention as applied to a specific individual, nor does it bar habeas review of constitutional claims or claims that the government is misapplying the statute in a particular case.

To prevent ouster of this Court's habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order prohibiting Respondents from transferring Petitioner outside the court's District or otherwise changing Petitioner's immediate custodian without prior leave of Court while this action is pending. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).

IV. Sara was illegally arrested on November 5, 2025, because ICE did not have a valid change in circumstance, and they did not have valid probable cause to execute a warrant.[4]

Sara was detained on May 10, 2023 by Immigration Officials in Eagle Pass, Texas. She was released from their custody into the United States. She was compliant with all the conditions ICE imposed. She applied for asylum and obtained a work authorization. There was not a justifiable change in circumstance that could legitimize ICE detaining her on November 5, 2023.

The United States implies that July 8, 2025 ICE Memo justifies detaining Sara November 5, 2025. [DN 5]. In July 2025, ICE issued a memo to all its employees by stealth, without public disclosure, and without public comment and notice period. [Exhibit 3, *ICE Interim Memo.*][5] According to the new ICE "interpretation", any person who entered without inspection, like Petitioner, is now subject to mandatory detention without bond. She was arrested as a result of this ICE Memo.

The abrupt change in July 2025, implemented without public notice, opportunity for comment, or regulatory justification, undermines Respondents' claim that their reading is compelled by statute. If the law were as clear as Respondents now assert, ICE would have had no reason to conceal its policy shift. Instead, the agency's actions reflect an attempt to circumvent both statutory requirements and public accountability, further supporting Petitioner's argument that the new interpretation is not only unlawful, but also procedurally and substantively deficient.

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[4] It is unclear to Counsel for the Petitioner if Sara was severed the warrant before detainment. Grayson County has made it difficult to schedule a call. This issue will be clarified with testimony on the December 4, 2025 hearing.

[5] *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admissions,* See AILA Website https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission. ("ICE Memo").

V. Petitioner is not subject to mandatory detention pursuant to 8 USC §1225.

The Respondents argue that the United States has erroneously applied 8 USC § 1225 from the year it was enacted to July 2025 as a result of the ICE Memo issued on July 8, 2025, and two BIA decision supporting the same statutory interpretation followed.

Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025).

The first case that was a published decision by the BIA, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), held that an applicant for admission arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings, is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b). This case is inapplicable to Petitioner because it deals with the detention of an "applicant for admission" who is arrested while arriving in the United States. The case is relevant to individuals who are at the border or a port of entry and are seeking admission into the country. It does not apply to those who have already entered the United States and are apprehended within its interior.

i. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

The second published decision from the BIA, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), significantly expanded the agency's mandatory detention interpretation to include all noncitizens who enter without inspection, denying them bond hearings under section 236(a) of the INA. The above-mentioned ICE memo, coupled with this decision, which will be discussed below, prevents Petitioner's release and violates Petitioner's Due Process rights.

ii. *Baustista v. Santacruz* in the Central District of California overturned *Matter of Yajure Hurtado* on November 25, 2025.

The Petitioners in *Baustista v. Santacruz*, No. 5:25-cv-01973-SSS-BFM (C.D. Cal. 2025). were each charged with being inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) or as being present

without admission in the United States. The Petitioners were denied bond hearings due to the July 8, 2025 ICE Memo requiring ICE employees to consider anyone arrested in the United Stats and charged with being inadmissible as an applicant for admissions under 8 USC §1225(b)(2)(A) subjecting them to mandatory detention.

The District Court found that the United States's interpretation of §1225 and §1226 was inaccurate. The Central District of California found that the United States interpretation of the statutes was contrary to the plain language of both §1225 and §1226. The Court certified a **Bond Eligible Class**:

> "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection, (2) were not or will not be apprehended upon arrival, and (3) are not or will not be subject to detention under 8 U.S.C §1226©, §1225(b)(1), or §1231 at the time the Department of Homeland Security makes an initial custody determination."

The Court found that a nationwide class certification under Rule 23(b)(2) was appropriate because "to certify a class that is not nationwide in spoke might result in the application of unlawful practices based solely on geographic locations." *Id* citing *Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV172048PSGSHKX, 2018 WL 1061408 at *12 (C.D. Cal. Feb.26, 2018). [Exhibit 1].

The United States justifies illegally detaining Sara due to the BIA holding in *Matter of Yajure Hurtado*. The Federal District Courts have repeatedly held that the United States are improperly interpreting 8 USC §1225(b) and illegally enforcing the statute. The United States have repeatedly ignored these holdings. The Central District of California has issued a nationwide class certification overturing the United States interpretation and enforcement of the statute. Yet, the United States continues to hold Sara illegally.

VI. Conclusion

On November 5, 2025, Sara was illegally detained during an routine check in with ICE. The United States argues that they had probable cause to detain her due to an administrative change. The "administrative change" results from an July 8, 2025 Memo and Matter of Yajure Hurtado changing the interpretation of 8 U.S. C §1225 and USC § 1226. Federal District Court have repeatedly held that the United States' interpretation of the federal codes contradicts the plane language of the statutes. On November 25, 2025, the Central District of California issued a nationwide class certification effectively overturing the United States's interpretation of the statutes. The United States has repeatedly disregarded the rulings of the federal district courts. They continued to disregard the law and hold Sara illegally.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

A true and accurate of this Reply and all the attached exhibits were served upon the Respondents via CM/ECF.

Rania A. Attum