UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LOVEJEET SINGH, Petitioner, v. Kevin RAYCRAFT, et al., Respondents.	Case No. 25-1486

PETITIONER'S REPLY IN SUPPORT OF THEIR PETITION FOR *HABEAS CORPUS*

Petitioner, LOVEJEET SINGH, by and through counsel, **WILLIAM A. QUICENO**, is a noncitizen detained by Immigration and Customs Enforcement ("ICE"), petitions this Honorable Court for a Writ of *Habeas Corpus* under 28 U.S.C. §2241, alleging his arrest and subsequent detention is illegal and that defendants have violated his right to due process guaranteed by the Fifth Amendment.

I. BACKGROUND

Lovejeet Singh is a native and citizen of India. He entered the United States nearly two years ago, in 2022. He lives in Indiana with family friends. On October 24, 2025, he was detained by ICE when he was managing a local shop for a friend who was away on holiday; he was then processed at the North Lake Correctional Facility in Michigan. ICE did not have any warrant to arrest him and have not presented him with a Notice to Appear ("NTA") to initiate 8 U.S.C. §1229(a).[1] Mr. Singh has no criminal history and has complied with his immigration proceedings for the past 2 years. He has developed strong community ties and his detention has

[1] Petitioner had received a prior NTA issued on March 6, 2023 and has complied with all immigration proceedings. No new NTA has been issued and Respondents have not provided any justification for why he was suddenly taken into custody.

caused both his friends and family extreme stress and anxiety during this detention.

II. DISCUSSION

A district court may grant a writ of habeas corpus to any person who demonstrates he is "in custody in violation of the Constitution or laws . . . of the United States." 28 U.S.C. §2241. The individual in custody bears the burden of proving that his detention is unlawful. *See, e.g. Walker v. Johnston*, 312 U.S. 275, 286 (1941).

Mr. Singh claims violations of the Nava Settlement (Count I); Immigration and Nationality Act ("INA") (Count II) and the Due Process clause of the Fifth Amendment (Count III). *See Petition*, Doc. 1, at 12-14. In opposition to Mr. Singh's petition, Respondents make two substantive arguments: (1) They claim that this Court is wrong to apply §1226(a) to immigrants like Mr. Singh who have been in the United States for many years and (2) Mr. Singh has not exhausted his claims before the Board of Immigration Appeals ("BIA") following his initial denial of bond under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (2025) and as such, his due process rights have not been limited.

A. EXHAUSTION OF REMEDIES

Respondents first argue that Mr. Singh can appeal his bond decision to the Board of Immigration Appeals ("BIA") and should first exhaust his other administrative opportunities before raising any plea with this court. *See Response in Opposition to Petition for Writ of Habeas Corpus ("Resp. Br.")*, Doc. 4, PageID 19, 29. However, there is no applicable statute or rule that mandates administrative exhaustion under these circumstances. *Jimenez Garcia v. Dep't of Homeland Sec.,* No. 2:2025cv13086 - Document 6 (E.D. Mich. 2025). Sec., No. 1:25-cv-1621, 2025 WL 2444114, at *8 (N.D. Ohio Aug. 25, 2025)). While the Sixth Circuit has not conclusively ruled on way or the other, all parties agree that courts within the Sixth Circuit "have applied the three-factor test, set forth in *United States v. California Care Corp.*, 709 F.2d

1241 (9th Cir. 1983), to determine whether prudential exhaustion should be required." *See Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025). Thus, courts may require prudential exhaustion when:

> (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision;
> (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and
> (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Id. (citing *Shweika v. Dep't of Homeland Sec.*, No. 1:06-cv-11781, 2015 WL 6541689, at *12 (E.D. Mich. Oct. 29, 2015)).

Respondents argue that the three-factor test favors Mr. Singh exhausting his administrative remedies. *Resp. Br.* Doc. 4, PageID 27-28. But the arguments are unconvincing; upon consideration of those factors, prudential exhaustion should not be required in Mr. Singh's case. First, the central question presented by Petitioner's § 2241 petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to Petitioner. That determination relies upon a purely legal question of statutory interpretation and does not require the record that would be developed should the Court require Mr. Singh to exhaust his administrative remedies. Moreover, this Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 413 (2024) (noting that "courts need not and under the [Administrative Procedure Act (APA)] may not defer to an agency interpretation of the law simply because a statute is ambiguous.").

Second, Mr. Singh's constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Mr. Singh, generally do not require exhaustion because the BIA cannot review constitutional challenges. See *Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

Third, Respondents claim that relaxing the exhaustion requirement would "encourage deliberate bypass" of the administrative scheme. *Resp. Br.* Doc. 4, PageID 28. (*quoting Hernandez Torrealba v. U.S. Dep't of Homeland Sec.*, No. 1:25CV01621, 2025 WL 2444114, at *10 (N.D. Ohio Aug. 25, 2025). However, Hernandez's habeas petition at issue in that case was raised during a process known as "expedited removal" which can be carried out under § 1225 under certain circumstances. They were only treated as applicants for admission if they were "encountered within **14 days of entry** without inspection **and within 100 air miles** of any U. S. international land border." "Designating Aliens for Expedited Removal," 69 Fed. Reg. 48879, 2004 WL 1776983 (2004)(emphasis added). *See also Dep't of Homeland Sec. v. Thuraissigiam,* 591 U.S. 103, 140, Fn.2, S. Ct. 1959(2020); *Torrealba v. United States Dep't of Homeland Sec.*, No. 1:25CV01621, 2025 LX 396297, at *11 (N.D. Ohio Aug. 25, 2025). Mr. Singh, on the other hand, has been here for over three years and was detained thousands of miles away from any border and his case does not qualify for an expedited removal of the kind that was at issue in *Hernandez*.

Finally, the fact that Respondents have clearly set forth their belief that § 1225(b)(1)(A) applies to all aliens who have resided within the United States prior to their arrest and detention makes it is doubtful that BIA review of Mr. Singh's custody would preclude the need for judicial review. The BIA recently proclaimed that any individual who has ever entered the United States unlawfully and was later detained is no longer eligible for bond and is subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (2025). Because any pursuit of administrative remedies by Mr. Singh would be futile in light of *Yajure Hurtado*, this Court can choose to waive the exhaustion requirement. *See Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648, at *3 (W.D. Mich. Oct. 17, 2025) (finding that because "[i]t is unlikely that any administrative review by the BIA

would lead to the Government changing its position" regarding the question of which statutory framework applies to the petitioner, exhaustion was not required).

Moreover, the waiver of exhaustion here should be warranted because bond denial appeals "typically take six months or more to be resolved at the BIA." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wa. 2025). And such a timeline for an administrative remedy is unreasonable or indefinite such that courts may waive the exhaustion requirement. *See Pizarro Reyes*, 2025 WL 2609425, at *3 (citing *United States v. Alam*, 960 F.3d 831, 836 (6th Cir. 2020)). Indeed, the "delays inherent" in the BIA's administrative process "would result in the very harm that the bond hearing was designed to prevent[:]" prolonged detention without due process. *Jimenez Garcia*, Doc. 6, at 7 (citing *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (citation omitted)). Requiring Mr. Singh to exhaust his administrative remedies through a BIA appeal would force his to spend unnecessary months in prison. It is unmistakable that "depriving [Petitioner] of [her] liberty while awaiting a BIA appeal decision certainly equates to hardship. And any delay results in the very harm [Petitioner] is trying to avoid . . . –detention." *Sanchez Alvarez*, Doc. 8, at 7 (quoting *Lopez-Campos*, 2025 WL 2496379, at 5). As such, this Court should waive any exhaustion requirements and review the merits of Mr. Singh's habeas petition.

B. BASIS FOR DETENTION

Immigration detention is governed by two statutory sections: 8 U.S.C. §§ 1225 and 1226. Section 1225 "authorizes the Government to detain certain aliens *seeking admission into the country*," while §1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings," including noncitizens "who were inadmissible at the time of entry." *Jennings*, 583 U.S. at 288-289 (emphasis added). Respondents, via their response, have declared that Mr. Singh is being detained under

§1225(b)(2). *Resp. Br.*, Doc. 4, PageID 29. Respondents seek to ignore years of precedent and lean into a statutory "interpretation" that seeks to upend 30 years of reasoned statutory interpretation. They regurgitate arguments already rejected by "[a]t least a dozen federal courts," who have reached the opposite conclusion upon reviewing the statutory text, statutory history, congressional intent, and statutory application for the last three decades, including this Court. *Yac Pastor v. Raycraft et al.*, No. 1:2025cv01301, Doc. 7 (W.D. Mich. Nov. 19, 2025)(Jarbou, J.); *Pizarro Reyes*, 2025 WL 2609425, at *3 (collecting cases); *see also Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM, 2025 WL 208438 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.,* No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv -11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, 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); *Aguilar Merino v. Ripa et al.*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Case 2:25-cv-13086-SKD-DRG ECF No. 6, PageID.186 Filed 10/21/25 Fla. Oct. 15, 2025); *Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025).

Section 1226(a) sets out a "default rule" for the discretionary detention of noncitizens

"already present in the United States." *Jennings*, 583 U.S. at 303. Under §1226(a), immigration authorities may make an initial determination as to detention, but noncitizens may then request a bond hearing before an Immigration Judge. 8 C.F.R. §1236.1(c)(8), (d) (1). At that hearing, the noncitizen "may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no danger to the community." *Nielsen v. Preap*, 586 U.S. 392, 397-98 (2019)(citing 8 C.F.R. §§1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006)). Thus, under § 1226(a), Mr. Singh is entitled to a discretionary bond determination hearing and his continued detention is in violation of the INA.

C. VIOLATION OF DUE PROCESS

Mr. Singh has a fundamental interest in liberty and being free from official restraint. By issuing its decision in *Matter of Yajure Hurtado*, the BIA has taken nearly all bond authority away from Immigration Judges. Respondents, on the other hand, argue that Mr. Singh has received due process because he "received notice of the charges against him, has access to counsel, may attend hearings with an immigration judge, can request bond at that time, has the right to appeal the denial of any request for bond, and has been detained by ICE for a short time." *Resp. Br.*, Doc. 4, PageID 43.

"Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025). Thus, noncitizens such as Mr. Singh, are entitled to its protections.[2] *See id.*; *see also Chavez-*

[2] Respondents invoke *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), to claim that Mr. Singh lacks Fifth Amendment protections and that his detention under § 1225 is lawful. That comparison fails. The petitioner in *Thuraissigiam* was apprehended only 25 yards from the border - unlike Mr. Singh, whose circumstances place his squarely within the protections recognized for individuals already inside the United States.

Acosta v. Garland, No. 22-3045, 2023 WL 236837, at *4 (6th Cir. Jan. 18. 2023).

If Mr. Singh's detention truly fell under §1225(b)(2)(A), Respondents' due process argument might carry more weight. However, for reasons outlined in the preceding sections, Mr. Singh is governed by § 1226(a). Section 1226(a) provides a discretionary framework for detention or release of an alien subject to that provision. The statute expressly allows the Attorney General to continue to detain the arrested alien or release the alien on "bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General," or "conditional parole." See 8 U.S.C. § 1226(a)(1), (2). This discretionary framework "requires a bond hearing to make an individualized custody determination." *See Lopez-Campos*, 2025 WL 2496379, at *9.

The Sixth Circuit has held that the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), regarding the adequacy of process, applies in the context of immigration detention. *See United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020). Thus, under *Mathews*, this Court must consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos*, 2025 WL 2496379, at *9 (citing Mathews, 424 U.S. at 335).

The first Mathews factor weighs strongly in favor of Mr. Singh. There is no dispute that he has a significant private interest in avoiding detention, one of the "most elemental of liberty interests." *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). This Court may also consider his conditions of confinement, i.e., "whether a detainee is held in conditions indistinguishable from criminal incarceration." *See Günaydin v. Trump*, No. 25-CV-01151, 2025 WL 1459154, at *7 (D. Minn. May 21, 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27 (1st Cir.

2021) and *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). Mr. Singh, through counsel, was living peacefully in the United States without any criminal background and complying with his immigration process. Mr. Singh now finds himself detained at a processing center without any end to his detention — he is certainly "experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning . . . lack of privacy, and, most fundamentally, the lack of freedom of movement." *See Günaydin*, 2025 WL 1459154, at *7.

The second Mathews factor also weighs in Mr. Singh's favor. An individualized bond hearing historically ensured that an immigration judge could assess whether he posed a flight risk or a danger to the community, reducing the risk that Mr. Singh would suffer an "erroneous deprivation" of his rights. *See Lopez-Campos*, 2025 WL 2496379, at *9. Given the unprecedented decision in the *Matter of Yajure Hurtado*, he no longer can receive an individualized bond hearing on the merits of his case and has been actively denied one to date.

Under the third Mathews factor, the Government "does, indeed, have a legitimate interest in ensuring noncitizens' appearance at removal proceedings and preventing harms to the community." *See Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025). However, given the record presented to the Court, Respondents have not established a significant interest in potentially "detaining someone who [could convince] a neutral adjudicator, following a hearing and assessment of the evidence, that his ongoing detention is not warranted." *See id.*[3] Furthermore, Respondents' position "requires the government to continue funding and overseeing [Petitioner's] detention[.]" *See id.*

[3] As noted above, of particular concern is the Respondents' failure to produce any signed documentation supporting Mr. Singh's arrest or continued detention. Neither a NTA nor a signed warrant of arrest has been provided to this Court or to Petitioner's counsel, which raises serious questions about the legal basis for his custody. His prior NTA from 2023 has little weight since it only shows Mr. Singh has actively complied with Immigration and is not a flight risk who would merit detention.

In sum, the Court's balancing of the Mathews factors weighs in Mr. Singh's favor. Accordingly, this Court should conclude that Mr. Singh's current detention under the mandatory detention framework set forth in § 1225(b)(2)(A) violates his Fifth Amendment due process rights.

D. **IMPLICATIONS OF CASTANON NAVA**

The Northern District of Illinois has already found, in *Castanon Nava et al v. Dep't of Homeland Sec. et al*, No. 1:2018cv03757 - Document 214 (N.D. Ill. 2025), that ICE's pattern of unlawful arrests in the Seventh District violates both the Fourth and Fifth Amendments and cannot serve as a lawful basis for detention. If, as Mr. Singh and numerous other courts hold, he cannot be subject to mandatory detention under § 1225, then Respondents are in violation of the *Nava* agreement. Mr. Singh's arrest in Indiana, unsupported by a signed warrant or NTA, places him squarely within the unlawful practices *Nava* sought to remedy. It is true that the Seventh Circuit has held, an "arrest made pursuant to an invalid warrant" may nonetheless be a "valid arrest if probable cause justifies the arrest as though it were warrantless." *Taylor v. Henson*, 61 F.3d 906, 1995 WL 411879, at *4 (7th Cir. 1995) (citing *United States v. Fernandez-Guzman*, 577 F.2d 1093, 1098–99 (7th Cir. 1978)); *Arrington v. Rowley*, No. 3:07-CV-27-JTC, 2009 WL 10699360, at *3–4 (N.D.Ga. Mar. 12, 2009) (citing cases). However, the Seventh Circuit has made clear that 8 U.S.C. §1357(a)(2)'s likelihood of escape limitation "is always seriously applied," United States v. Cantu, 519 F.2d 494, 496–97 (7th Cir. 1975), and courts have held that "'[t]he flight-risk determination is not mere verbiage.'" *Bautista-Ramos*, 2018 WL 5726236, at *8, quoting *Pacheco-Alvarez*, 227 F.Supp.3d at 889. *Nava* reaffirms that simply claiming someone is a flight risk is not sufficient justification for arrest.

The *Nava* class is a Rule 23(b)(2) injunctive class, defined as: All current **and future persons** arrested without a warrant for a civil violation of U.S. Immigration Law within the

ICE Chicago Field Office's Area of Responsibility. *Castañon Nava*, 2025 WL 2842146, at 9 (emphasis added). Because that class is already certified, membership is automatic for anyone who meets the definition, and no separate judicial finding from this Court is required for class membership. It remains in effect and continues to govern ICE's conduct within Illinois.

This Court need only review the extent that Mr. Singh's arrest mirrors those already adjudicated in *Nava* to determine if his detention falls within the scope of that ongoing injunctive relief. Mr. Singh was not issued an I-213 and to date no warrant for his arrest has been produced. He is a foreign national; he had entered the United States illegally over twenty years ago; he is married and has two U.S. citizen children; and no criminal history. There is no justification for likelihood of escape and none of these facts constitute probable cause that he would have been likely to escape before a warrant could be obtained for his arrest. Accordingly, this Court should find that Mr. Singh was subjected to a warrantless arrest in violation of the *Nava* Agreement. The remedy for this violation is prompt release or, if Mr. Singh is released on bond and no longer in ICE custody, bond payment is to be promptly reimbursed, and all imposed conditions of release should be lifted. *Castañon Nava*, 2025 WL 2842146, at 42.

III. CONCLUSION

For the reasons stated above, Mr. Singh's petition for writ of habeas corpus should be granted.

(1) Defendants should immediately release Mr. Singh from custody, or in the alternative, provide his with a bond redetermination hearing under 8 U.S.C. § 1226(a) within 3 days.

(2) If Respondents intend to pursue a new bond redetermination, this Court should expressly preserve Mr. Singh's due process claim to permit renewal should bond

again be denied.

(3) Furthermore, Mr. Singh requests that this Court order Respondents to file a status report within six business days of the date of this Court's opinion and accompanying order and judgment to certify compliance with this opinion. The status report shall include if and when the bond hearing occurred, if bond was granted or denied, and if bond was denied, the reasons for the denial.

In light of Mr. Singh's prior bond denial under *Yajure Hurtado*, the risk of the Immigration Judge simply re-applying this in his bond redetermination hearing, his separation from his friends, family, and community, and the fact that he has complied with all immigration proceedings to date, the more appropriate remedy is immediate release.

Dated: December 1, 2025
Chicago, Illinois

/s/William A Quiceno
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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2025, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of Illinois by using the CM/ECF system. All parties to this case are registered CM/ECF users and will be served through the CM/ECF system.

Dated: December 1, 2025
Chicago, Illinois

Respectfully submitted,

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