UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

JOSE LUIS VELAZQUEZ VELAZQUEZ, Petitioner, v. KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and SHERIFF TROY GOODNOUGH, Monroe County Sheriff. Respondents.	Case No. 25-cv-13675 Hon. Robert J. White

PETITIONER'S REPLY BRIEF
IN SUPPORT OF
AMENDED PETITION FOR WRIT OF HABEAS CORPUS

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I. INTRODUCTION

Respondents do not dispute that Petitioner has lived in the United States for many years, nor do they contest that the government long interpreted the INA to require bond hearings for individuals in his position. They also do not refute that multiple courts have rejected the narrower interpretation they now propose. *Valencia Zapata v. Kaiser*, 2025 WL 2741654. Instead, Respondents offer procedural and statutory arguments that other courts have already considered and rejected, and those arguments lack merit here.

II. ARGUMENT

A. There are Multiple Proper Respondents.

Respondent Sheriff Troy Goodnough is the current Monroe County Sheriff. Pursuant to MCL §51.75, Sheriff Goodnough has the ultimate authority over the jails and their prisoners within the county. As supported by this Honorable Court's order dated December 10, 2025 (ECF Doc. 11, PageID.151) and Respondents in their response brief (ECF Doc. 16, PageID.240), Sheriff Goodnough is undoubtedly a proper respondent.

The parties agree that the ICE field office director is Petitioner's "immediate custodian" and thus a proper respondent. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Courts in this District, as well as the Western District of Michigan, have therefore declined to dismiss higher-level DHS or ICE officials where doing so

is necessary to ensure effective relief in the event of a transfer.[1]

Respondents argue that the only proper Respondent would be the "immediate physical custodian," relying on *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). But the Sixth Circuit has made clear that the immediate-custodian rule is not absolute in immigration habeas cases. Although *Roman v. Ashcroft*, *supra*, states that a detained noncitizen "generally" must name the immediate custodian, the court expressly recognized "the possibility of exceptions," particularly where transfer practices could undermine access to habeas review. *Id.* at 322, 325–26. The Sixth Circuit noted that immigration detainees are frequently moved among facilities and that naming only the day-to-day warden could prevent a court from enforcing its orders. *Id.* at 326.

Finally, *Padilla* did not foreclose such exceptions in immigration habeas cases, explicitly leaving that question open. 542 U.S. at 435 n.8. Because the named Respondents can effectuate any relief ordered by the Court, dismissal on custodian

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[1] *Marin Garcia v. Noem*, No. 25-CV-1271, 2025 WL 3017200 (W.D. Mich. Oct. 29, 2025); *Rodriguez v. Noem*, No. 25-CV-1196, 2025 WL 3022212 (W.D. Mich. Oct. 29, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Contreras-Cervantes v. Raycraft*, No. 25-CV-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); *Jimenez Garcia v. Raybon*, No. 25-CV-13086, 2025 WL 2976950 (E.D. Mich. Oct. 21, 2025); *Casio-Mejia v. Raycraft*, No. 25-CV-13032, 2025 WL 2976737 (E.D. Mich. Oct. 21, 2025); and *Santos Franco v. Raycraft*, No. 25-CV-13188, 2025 WL 2977118 (E.D. Mich. Oct. 21, 2025).

grounds is unwarranted. The named Respondents Noem, Bondi and Raycraft, are all appropriate.

B. Petitioner's Detention Does Violate the Due Process Clause.

The Fifth Amendment protects all persons, including noncitizens, from unjustified physical restraint. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner is detained under §1226(a), which provides a discretionary custody framework allowing release on bond or parole and therefore requires individualized review—not the mandatory scheme of §1225(b)(2)(A). Courts applying §1226(a) consistently hold that it requires a bond hearing. *Lopez-Campos*, 2025 WL 2496379 (E.D. Mich., Aug. 29. 2025.)

Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), a court evaluating the adequacy of process must consider: (1) the private interest affected; (2) the risk of erroneous deprivation under existing procedures and the value of additional safeguards; and (3) the Government's interest, including administrative burdens. Each factor favors Petitioner. His interest in avoiding physical confinement is substantial, and the burdens he experiences - including separation from his family and conditions resembling criminal custody - underscore the weight of that interest. A bond hearing meaningfully reduces the risk of unnecessary or mistaken detention by permitting an individualized assessment of flight risk and danger. And while the Government has legitimate enforcement interests, Respondents have not shown any

particularized need for continued detention, which also imposes ongoing fiscal costs. On balance, the *Mathews* test supports Petitioner's entitlement to a bond hearing.

C. Administrative Exhaustion

Exhaustion requirements not contained in the statute are prudential, not jurisdictional. *Perkovic v. INS*, 33 F.3d 615, 619 (6th Cir. 1994). Prudential exhaustion is a judge-made doctrine applied case by case, considering whether agency expertise is needed, whether excusing exhaustion would undermine the administrative process, and whether the agency is likely to correct any error *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019); *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983).

All three prudential factors weigh against requiring exhaustion. The issues are purely legal, the administrative process would be futile given the due process claim, and there is no indication that agency review would change Respondents' position on §1225(b)(2)(A). Courts excuse exhaustion where it would be futile, provide no meaningful relief, or cause undue delay. *McCarthy v. Madigan,* 503 U.S. 140, 145 (1992); *Fazzani v. Northeast Ohio Correctional Center,* 473 F.3d 229 (6th Cir. 2006); *Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000). Respondents admit that administrative exhaustion would be futile. ECF Doc. 9, Page ID.110 (admitting that *Yajure Hurtado,* 29 I&N Dec. 215 (BIA 2025) bars

administrative relief). Furthermore, this Court and many others have waived exhaustion in similar proceedings[2].

D. §1226(a), not §1225(b)(2)(A), Applies to Petitioner.

Even standing alone, §1225(b)(2) does not support Respondents' reading. The provision governs inspections conducted by an "examining immigration officer," a process that has no application to Petitioner, who seeks relief before an immigration judge. Respondents' reliance on the phrase "seeking admission" overlooks that "admission" is defined as lawful entry after inspection, 8 U.S.C. §1101(a)(13)(A); extending §1225(b)(2) to individuals long residing in the United States would effectively erase the statutory concept of "entry." *Chafla v. Scott*, 2025 WL 2688541 (D. Me. Sept. 22, 2025).

Nor does seeking relief to remain in the country transform Petitioner into someone seeking entry. Petitioner is not asking an immigration officer for permission to enter but instead seeks cancellation of removal before an immigration judge – a form of relief that modifies legal status, not physical admission into a country where he is already present.

In summary, §1225(b)(2) is a border-inspection provision that presumes an ongoing inspection and potential entry determination by an immigration officer.

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[2] *Pizzaro Reyes v, Raycraft, supra; Lopez Campos v. Raycraft, supra; Salgado Mendoza v. Noem,* No. 25-CV-1252, 2025 WL 3077589 (W.D. Mich. Nov. 4, 2025); and *Singh v. Noem,* No. 25-CV-1251, 2025 WL 3170855 (W.D. Mich. Nov. 13, 2025).

Petitioner's circumstances - long-term residence in the United States and pursuit of relief before an immigration judge - fit squarely outside that framework. Respondents' reading would distort statutory definitions, disregard procedural posture, and expand §1225(b)(2) far beyond its text and purpose.

E. Respondents Misinterpret §1225.

Respondents' proposed distinction between "arriving aliens" and "applicants for admission" is inconsistent with the statute. Section 1225(a)(1) defines "applicants for admission" to include individuals arriving at the border, and §1225(b)(2) itself identifies categories—such as crewmen, stowaways, and entrants from contiguous territory—that plainly involve recent arrivals, not long-term residents. As *Jennings*[3] explains, §1225 establishes a border-inspection framework in which arriving noncitizens fall under either §1225(b)(1) or §1225(b)(2), with §1225(b)(2) serving as a catchall for those not placed in expedited removal. Courts continue to apply §1225(b)(2) to such arriving individuals. *Zumba v. Bondi,* No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025), at 7.

Nor does §1225(b)(2) support Respondents' interpretation when read on their own terms. The provision governs inspections by an "examining immigration officer," which has no application to Petitioner, who is seeking relief before an immigration judge. "Admission" is defined as lawful entry after inspection, 8 U.S.C.

[3] *Jennings v. Rodriguez,* 583 U.S. 275 (2018).

§1101(a)(13)(A); extending §1225(b)(2) to long-term residents would effectively delete the statutory concept of "entry." *Chafla*, 2025 WL 2688541, at page 6. Petitioner seeks adjustment or cancellation of removal, which alters legal status—not physical admission into the United States, where he already resides.

F. *Maldonado Bautista v. Santacruz*

Maldonado Bautista v. Santacruz, 5:25-cv-01873-SSS-BFM (C.D. Cal.), is a certified class action, and Petitioner is an undisputed class member. Judge Sykes has now entered final judgment under Rule 54(b), holding that class members are detained under §1226(a), not §1225(b)(2), and vacating the DHS July 8 memorandum. (Exhibit B). Although *Yajure Hurtado* was not vacated because it was not named in the amended complaint, the court held it is "no longer controlling" and its legal conclusion is no longer viable.

This ruling directly undermines Respondents' position here. Even absent a classwide injunction, the court's reasoning carries significant persuasive weight, especially given class certification and entry of final judgment. As a confirmed class member, Petitioner falls within the scope of these determinations, and Respondents cannot rely on §1225(b)(2) to justify his custody.

III. CONCLUSION

Petitioner requests that the Court grant the relief requested in the Petition.

Respectfully submitted,

/s/ Sufen Hilf

Date: December 30, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2025, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all parties of record.

/s/ Rosanne C. Flores
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