

**UNITED STATES DISTRICT
COURT FOR THE SOUTHERN
DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

MUHAMMAD ABUBAKAR ZAI,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 1:25-CV-00280
)	
PAMELA JO BONDI,)	
United States Attorney General;)	
)	
TODD LYONS,)	
Acting Director of Immigration and Customs)	
Enforcement)	
)	
KRISTI LYNN NOEM,)	
Secretary of Homeland Security;)	
)	
MIGUEL VERGARA,)	
Harlingen Acting Field Office Director)	
For Detention and Removal, U.S.)	
Immigration and Customs Enforcement; and)	
)	
)	
NORBAL VASQUEZ,)	
Warden, Port Isabel Processing Center)	
Detention Center;)	
)	
in their official capacities;)	
)	
Respondents.)	

PETITIONER’S REPLY TO RESPONDENTS’ RESPONSE AND MOTION TO DISMISS

Petitioner respectfully submits this Reply in response to Respondents’ “Response to the Petition for Writ of Habeas Corpus and Motion to Dismiss and, in the Alternative, for Summary Judgment.” Respondents’ arguments rest on a fundamental mischaracterization of Petitioner’s

legal posture, an overextension of *Matter of Yajure Hurtado*, and a detention theory that conflicts with the text of the INA, binding Supreme Court precedent, and the Due Process Clause.

I. THE PETITION IS PROPERLY BEFORE THIS COURT AND IS NOT BARRED BY EXHAUSTION

Respondents first argue that the Petition must be dismissed for failure to exhaust administrative remedies. That argument fails as a matter of law.

There is no statutory exhaustion requirement applicable to habeas petitions brought under 28 U.S.C. § 2241 challenging the legality of detention itself, rather than the merits of a removal order. The Supreme Court has made clear that exhaustion in habeas is prudential, not jurisdictional, and may not be required where administrative remedies are inadequate, futile, or incapable of providing timely relief. *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992); *Boumediene v. Bush*, 553 U.S. 723, 793 (2008).

Here, Petitioner challenges the statutory authority for his detention, not a discretionary custody determination or the merits of removability. Immigration Judges lack authority to adjudicate constitutional claims or to disregard binding detention interpretations imposed by the BIA. See *Jennings v. Rodriguez*, 583 U.S. 513, 530–31 (2018). Exhaustion is therefore futile. Courts in this Circuit have repeatedly rejected exhaustion arguments in analogous detention challenges. See *Oduote v. Barr*, 2019 WL 1772470, at *3 (S.D. Tex. Apr. 23, 2019).

Accordingly, Respondents' exhaustion argument does not bar review.

II. PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225(b)(2)

Respondents' core argument is that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he is an "applicant for admission." That position is legally untenable on these facts.

Section 1225(b)(2) governs individuals who are present at the border or at a port of entry and are being processed for admission. Petitioner, by contrast, entered the United States years ago, has lived in the interior, and is now in removal proceedings. The Supreme Court has repeatedly cautioned against collapsing the statutory distinction between arriving applicants and noncitizens apprehended in the interior. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Respondents rely heavily on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), but that decision is not binding on this Court, and its reasoning has been questioned by multiple federal courts. More importantly, *Yajure Hurtado* cannot override Supreme Court precedent or expand detention authority beyond constitutional limits. See *INS v. St. Cyr*, 533 U.S. 289, 320 n.45 (2001).

Even assuming arguendo that § 1225 could initially apply, indefinite or prolonged detention without individualized review raises serious constitutional concerns. Jennings expressly left open as-applied constitutional challenges to prolonged detention under § 1225. 583 U.S. at 541–42. Petitioner’s detention here is not brief, incidental, or tethered to an active admission process; it is prolonged, interior detention with no meaningful procedural safeguards.

III. THE GOVERNMENT’S INTERPRETATION VIOLATES DUE PROCESS

The Fifth Amendment applies to all “persons” within the United States, regardless of immigration status. *Zadvydas*, 533 U.S. at 693. Detention without a bond hearing requires a compelling justification and strong procedural protections.

Under the Government’s theory, a person who entered unlawfully years ago may be detained indefinitely, without a bond hearing, based solely on legal fiction. That result is constitutionally suspect. The Supreme Court has repeatedly rejected interpretations of the INA that would permit indefinite civil detention without adequate process. See *Clark v. Martinez*, 543 U.S. 371, 380 (2005).

At minimum, due process requires an individualized custody determination where the

Government bears the burden of justifying continued detention by clear and convincing evidence. *Addington v. Texas*, 441 U.S. 418, 425–27 (1979); *Santosky v. Kramer*, 455 U.S. 745, 756 (1982).

IV. RESPONDENTS' RELIANCE ON CABANAS AND SIMILAR CASES IS UNPERSUASIVE

Respondents cite *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025).

While the Court is aware of *Cabanas*, that decision is not binding, and it represents one side of an evolving legal debate. Other courts have reached contrary conclusions, recognizing that prolonged interior detention under § 1225 raises grave constitutional concerns and cannot be sustained without individualized process.

Moreover, *Cabanas* did not address the full due process implications presented here, nor did it involve the same factual posture or length of detention.

V. THE COURT SHOULD CONSIDER THE CURRENT FEDERAL POSTURE REGARDING YAJURE HURTADO

Finally, Petitioner respectfully notes that *Matter of Yajure Hurtado* is currently the subject of significant judicial scrutiny, and at least one federal court has issued nationwide relief rejecting the Government's expansive interpretation of § 1225 in this context. While Petitioner does not rely solely on that relief, it underscores that Respondents' detention theory is far from settled and should not be reflexively adopted without constitutional analysis.

VI. HABEAS RELIEF IS WARRANTED

This Court has already found that Petitioner's allegations raise a genuine question as to the legality of detention. See Order to Show Cause, Dkt. 6. Respondents have failed to carry their burden to demonstrate that Petitioner's detention is lawful, constitutionally permissible, or reasonably limited.

Accordingly, the Court should grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release, or, at minimum, require a prompt bond hearing at which the Government bears the burden of justifying continued detention by clear and convincing evidence.

CONCLUSION

For all of the foregoing reasons, Respondents' continued detention of Petitioner cannot be sustained under the Immigration and Nationality Act or the Constitution. The Government's position depends on an expansive reading of 8 U.S.C. § 1225(b)(2) that has been rejected by numerous federal courts and rests heavily on *Matter of Yajure Hurtado*, a recent agency decision that is neither binding on this Court nor insulated from judicial review. As this Court has already recognized in issuing its Order to Show Cause, Petitioner has raised a serious and substantial question as to whether his detention is lawful. The Government has not carried its burden to demonstrate that mandatory detention applies, nor has it shown that continued custody is authorized under any other provision of the INA. Moreover, the Government's interpretation raises grave constitutional concerns by permitting prolonged detention without any individualized assessment, a result that conflicts with longstanding habeas principles and Supreme Court precedent.

Dated: December 26, 2025

Respectfully submitted,

By: /s/ Anthony Matulewicz
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CERTIFICATE OF SERVICE

The undersigned certifies that on December 26, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Anthony Matulewicz

Anthony Matulewicz