

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JEREMIAS GARCIA DE LA
CRUZ

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CIVIL No. 4:25-cv-05577

v.

PAM BONDI, Attorney
General of the United States,
et al,

Respondents.

REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION

1. On 28 November 2025, this Honorable Court ordered the respondent to file an answer within thirty (30) days. The Court further ordered the petitioner to respond within twenty (20) days of the respondent's answer.

2. Petitioner urges the Court to find that no applicable statute or rule requires Garcia De La Cruz to exhaust administrative remedies. In an immigration case, "exhaustion of administrative remedies is statutorily required only on appeals from final orders of removal." *Hniguira v. Mayorkas*, No. 4:23-cv-03314 (S.D.Tex. Mar. 20, 2024); *see also, Arenas Santoyo v. Dickey*, No: 4:25-cv-05555 (S.D.Tex. Dec. 24, 2025).

Garcia De La Cruz does not presently appeal from an order of removal, so no exhaustion of remedies is required by statute. “[W]hen a ‘legal question is fit for resolution and delay means hardship, a court may choose to decide the issues itself.’” *Arenas Santoyo v. Dickey*, p. 5 (quoting *Pizarro Reyes v. Raycraft*, No. 25-cv-12546 (E.D.Mich. Sept. 9, 2025)). This lawsuit involves a dispute of the interpretation of a statute. “Other courts have found that preventing six months or more of unlawful detention (bond determinations typically take six months or more) outweighs the BIA’s interest in detaining an individual while the bond determination is resolved on appeal.” *Arenas Santoyo v. Dickey*, p. 6; *see also, Lopez Arevelo v. Ripa*, No. 25-cv-00337 (W.D.Tex. Sept. 22, 2025). The respondents briefing establishes that requiring Garcia De La Cruz to pursue administrative remedies would be futile. “A petitioner need not exhaust claims when he can demonstrate ‘the futility or inadequacy of administrative review.’” *Arenas Santoyo v. Dickey*, p. 6 (quoting *Gardner v. Sch. Bd. Caddo Par.*, 958 F.2d 108, 112 (5th Cir. 1992)). “The futility exception applies when exhaustion would be ‘clearly useless’ and ‘it is certain [a] claim will be denied.’” *Arenas Santoyo v. Dickey*, p. 6 (quoting *All. For Hippocratic Med. v. Food & Drug Admin.*, 2023 WL 2913725, at 15 (5th Cir. Apr. 12, 2023)).

3. Requiring Garcia De La Cruz to exhaust administrative remedies would be futile. The respondents contend that Garcia De La Cruz should pursue an appeal to the Board of Immigration Appeals when the respondents cite a Board of Immigration Appeals decision that purports to hold that the immigration judge does not have bond jurisdiction.

4. At issue in this lawsuit is the proper interpretation and application of §1225(b) and §1226(a). Garcia De La Cruz urges this Honorable Court to find that the discretionary detention provision of §1226(a) applies. The government contends that Garcia De La Cruz is subject to mandatory detention under §1225(b).

5. Petitioner urges this Court to decline to reconsider its prior rulings and continue to opine that the discretionary detention provision of §1226(a) applies to the facts of Garcia De La Cruz's case. Petitioner entered the United States more than 25 years ago and was apprehended more than 25 years after his arrival; therefore, he is neither an "arriving alien" nor is he "seeking admission."

6. Petitioner respectfully urges this Court to reject the expansive application of § 1225(b) as requiring mandatory detention of certain

noncitizens. The respondents urge the Court to be persuaded to reconsider its interpretation of the issue in dispute, and point to the holdings in recent decisions in the Southern District of Texas. *See, Montoya Cabanas v. Bondi*, No. 4:25-cv-04830 (S.D.Tex. Nov. 13, 2025); *Jimenez v. Thompson*, No. 4:25-cv-05026 (S.D.Tex. Nov. 24, 2025). Petitioner urges this Honorable Court to decline the opportunity to reconsider its holding on the issue that is presented for interpretation.

7. In addition to this Court's own holdings, which the respondents cite in a footnote to ECF No. 13 at ¶ 14, with respect to the disputed issue, another sister court in the Southern District of Texas resolved this same statutory interpretation dispute in favor of the immigrant by finding that the discretionary detention provision of § 1226(a) applies to an arrest in the interior of the United States. *Arenas Santoyo v. Dickey*, 4:25-cv-05555 (S.D.Tex. Dec. 24, 2025).

8. Courts should give meaning to each phrase rather than an interpretation of the statutory language that renders parts of the statute superfluous. *Id.*; *see, e.g. TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001). The respondents' interpretation of § 1225(b) would make portions of it superfluous. *Arenas Santoyo v. Dickey*, p. 11; *Lopez Benitez v. Francis*,

No. 25-cv-05937 (S.D.N.Y. Aug. 13, 2025); *Castañon Nava v. U.S. Dep't of Homeland Security*, No. 25-cv-03050 (7th Cir. Dec. 11, 2025).

9. To construe § 1225 (b) as covering all noncitizens in proceedings, even those who demonstrably present no flight risk or danger, would render the “seeking admission” limitation superfluous, contravening basic canons of statutory construction.

10. A pivotal consideration in the Court’s analysis should be the principles underlying immigration detention. The purpose of detention is to ensure appearance at proceedings and to safeguard the community, not to impose limitless confinement as punishment or mandatory confinement without individualized assessment. If the government cannot justify detention through a showing of necessity (e.g., risk of flight or danger), continued detention is not justified. Petitioner filed this case because the respondents did not permit him a bond hearing to show that he is not a flight risk or danger to the community.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court:

- (1) Deny the respondents’ motion to dismiss
- (2) Grant Garcia De La Cruz’s petition for writ of habeas corpus

- (3) Order that Garcia De La Cruz be provided an individualized bond hearing under 8 U.S.C. § 1226(a) within seven (7) days of the date of the Court's order or else immediately release him from custody
- (4) Order that the Respondents be forbidden from removing Petitioner or transferring him outside of the Southern District of Texas

Respectfully submitted,

By: 

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