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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Camillo Luis Garcia
Petitioner,

v.

Warden, ERO Camp East Montana;
Kristi Noem, Secretary of Homeland Security;
Pamela Bondi, Attorney General;
Todd Lyons, Director of Immigration and Customs Enforcement
Respondents.

Case No.: 25-570

Reply in Support of Petition for Writ of Habeas Corpus

I. INTRODUCTION

Respondents' Opposition rests on two sweeping propositions that are legally unsound and squarely contradicted by recent federal court authority, including *Lazaro Maldonado Bautista et al. v. Santacruz Jr.*, No. 5:25-cv-01873 (C.D. Cal. Nov. 25, 2025). First, Respondents argue that the Ex Post Facto Clause is categorically inapplicable to Petitioner's detention. Second, they contend that this Court lacks jurisdiction because any challenge to Petitioner's detention classification must be funneled exclusively through removal proceedings and reviewed only after a final order of removal. Both arguments fail.

At bottom, Respondents seek to insulate a newly adopted detention regime from judicial review while retroactively imposing a dramatically harsher consequence—mandatory civil incarceration without bond—on long-term residents who, for decades, were uniformly treated as bond-eligible under § 1226(a). This overreach is particularly stark in this case, where the Petitioner has no criminal history whatsoever, has lived peacefully in the United States for more than two decades, and poses no danger to the community. To the contrary, Petitioner has himself been a victim of serious criminal conduct and cooperated with law enforcement; a prosecutor's office formally certified his cooperation by issuing a U Visa certification. These undisputed facts further underscore the punitive and irrational nature of the mandatory detention the Government now seeks to impose. The Constitution, the habeas statute, and the INA do not permit that result.

II. RESPONDENTS' EX POST FACTO ARGUMENT FAILS UNDER THE FIFTH CIRCUIT RETROACTIVITY DOCTRINE

Respondents' Section F argument collapses under settled Fifth Circuit retroactivity principles and mischaracterizes the nature of Petitioner's claim. Petitioner does not assert that removal proceedings are criminal or that unlawful entry was lawful when committed. Rather, he challenges the retroactive imposition of mandatory civil detention without bond based on a novel agency interpretation that postdates his entry and decades of settled residence.

a. Fifth Circuit Law Recognizes Unconstitutional Retroactive Civil Disabilities

The Fifth Circuit applies *Landgraf*'s framework to determine whether a new law or interpretation impermissibly "attaches new legal consequences to events completed before its enactment." *Landgraf v. USI Film Prods.*, 511 U.S. 244, 270 (1994); see also *I.N.S. v. St. Cyr*, 533 U.S. 289, 321–25 (2001) (retroactivity inquiry turns on settled expectations and reliance).

Mandatory detention without bond is not a mere procedural adjustment. It is a substantive deprivation of physical liberty, made even more constitutionally suspect where, as here, Petitioner has no criminal history, has never been found to pose a flight risk or danger to the community, and in fact has been recognized by law enforcement as a crime victim who affirmatively assisted a criminal investigation, as evidenced by the issuance of a U Visa certification. The Fifth Circuit has repeatedly recognized that immigration detention implicates a core liberty interest subject to heightened constitutional scrutiny. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Gonzales*, 424 F.3d 42, 42–43 (5th Cir. 2005) (recognizing due process limits on civil immigration detention).

For decades before DHS's current novel interpretation, individuals like Petitioner—long-term interior residents who entered without inspection and were later encountered in the interior of the country—were detained, if at all, under § 1226(a) with access to individualized bond hearings. DHS's abrupt reinterpretation of § 1225(b)(2) now strips that liberty interest and replaces it with categorical incarceration, retroactively attaching a severe new consequence to past conduct.

That is precisely the type of retroactive civil disability condemned in *St. Cyr* and *Vartelas v. Holder*, 566 U.S. 257, 273–75 (2012). The Government's attempt to cabin those cases to criminal contexts ignores their core holding: the retroactivity doctrine protects settled expectations against new, harsher legal consequences.

b. Mandatory Detention Is Substantive, Not Procedural, Under Fifth Circuit Precedent

Respondents' reliance on cases describing removal as "civil" is misplaced. Even civil detention must comport with due process and retroactivity limits. The Fifth Circuit has never held

that Congress or DHS may retroactively impose mandatory detention without bond on long-settled residents solely through reinterpretation of existing law.

The Central District of California recently rejected this same argument in *Lazaro Maldonado Bautista et al. v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, Order Granting Class Certification at 16–18 (C.D. Cal. Nov. 25, 2025), holding that DHS's reinterpretation of § 1225(b)(2) unlawfully deprives a defined class of noncitizens of bond eligibility previously guaranteed by the INA's structure. That court further found the injury uniform and systemic: mandatory detention imposed where § 1226(a) governs.

District courts confronting identical detention schemes—including courts within this District—have reached the same conclusion. *See, e.g., Lopez-Arevalo v. Ripa*, No. 25–CV–337–KC, 2025 WL 2691828, at *6–8 (W.D. Tex. Sept. 22, 2025) (holding that district court retains § 2241 jurisdiction to order a bond hearing for a noncitizen labeled as detained under § 1225 and rejecting Government's channeling arguments); *Hernandez v. Barr*, 438 F. Supp. 3d 646, 653–55 (W.D. Tex. 2020) (granting habeas relief and ordering bond hearing where continued detention without individualized review violated due process); see also *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 693–95 (D. Mass. 2018) (collecting habeas cases ordering bond hearings notwithstanding the Government's detention classifications).

III. THIS COURT HAS HABEAS JURISDICTION TO REVIEW THE PETITIONER'S DETENTION

Respondents' jurisdictional arguments under §§ 1225(b)(4) and 1252(b)(9) are foreclosed by Supreme Court and Fifth Circuit precedent distinguishing detention challenges from removal challenges.

a. Habeas Review of Immigration Detention is Settled and Preserved

The Supreme Court has repeatedly held that challenges to immigration detention fall within the core of habeas corpus. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 293–95 (2018). The Fifth Circuit has likewise entertained habeas challenges to detention authority independent of removal proceedings. See *Hernandez v. Gonzales*, 424 F.3d at 42–43.

Petitioner does not ask this Court to adjudicate admissibility, removability, or eligibility for relief. He challenges only the statutory and constitutional authority for his ongoing detention. Accordingly, this case falls well outside the narrow limits on review addressed in *DHS v. Thuraissigiam*, 140 S. Ct. 1959 (2020), which concerned expedited-removal admissibility determinations, not habeas challenges to prolonged civil detention imposed in the interior of the United States. Nor does he seek special treatment based on criminal equities—because there are none. Petitioner has no criminal record and, far from presenting a public-safety concern, has been formally recognized by a prosecutor's office as a victim of crime who cooperated with law enforcement, as reflected in his U Visa certification. These facts further confirm that this case concerns unlawful detention authority, not discretionary enforcement priorities. He challenges only the statutory and constitutional authority for his ongoing detention. That claim is paradigmatically habeas and squarely within this Court's jurisdiction under 28 U.S.C. § 2241.

IV. SECTION 1252(b)(9) DOES NOT CHANNEL OR BAR PETITIONER'S DETENTION CLAIM

Respondents' reliance on § 1252(b)(9) reflects the very overbreadth the Supreme Court has warned against. Section 1252(b)(9) is not a "zipper clause" that sweeps all immigration-related claims into removal proceedings. *See Jennings*, 583 U.S. at 295.

a. Fifth Circuit–Consistent Reading of § 1252(b)(9)

Under *Jennings*, § 1252(b)(9) applies only to claims that are the functional equivalent of challenges to removal orders. It does not bar claims that are collateral to removal, such as challenges to detention authority, bond eligibility, or prolonged confinement. Id. at 294–97.

Petitioner's claim does not seek to halt removal proceedings, overturn an NTA, or adjudicate admissibility. It challenges DHS's threshold decision to impose mandatory detention without bond, relief that immigration judges are powerless to grant when DHS asserts § 1225(b)(2).

b. Immigration Judges Lack Authority to Resolve the Claims Raised Here

As demonstrated in *Maldonado Bautista*, immigration judges routinely disclaim jurisdiction over bond hearings precisely because DHS labels detainees as subject to § 1225(b)(2). See *Maldonado Bautista*, Order at 6–9. Forcing Petitioner to present this claim in removal proceedings would therefore be futile and would raise serious Suspension Clause concerns.

The Constitution does not permit Congress or the Executive to eliminate habeas review by routing detainees to a forum that lacks authority to provide relief. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

V. RESPONDENTS' POSITION WOULD EFFECTIVELY SUSPEND THE WRIT OF HABEAS CORPUS

If accepted, the Respondents' arguments would mean:

1. DHS may retroactively redefine detention statutes;
2. Impose mandatory incarceration without bond;
3. Insulate that detention from district court review; and

4. Force detainees to wait months or years for appellate review after removal proceedings conclude.

That regime is incompatible with the Suspension Clause and centuries of habeas jurisprudence. The Great Writ exists precisely to prevent executive detention without timely judicial review.

VI. CONCLUSION

Respondents ask this Court to endorse a result that is not merely unlawful, but fundamentally unconscionable: the mandatory civil incarceration, without bond or individualized review, of a long-term resident with no criminal history, deep family and community ties, and a demonstrated record of cooperation with law enforcement as a certified victim of crime. Nothing in the Constitution or the Immigration and Nationality Act compels—let alone permits—such an outcome.

The Government's position would transform mandatory detention from a narrow exception into a sweeping rule, allowing DHS to retroactively impose incarceration on individuals who, for decades, were treated as bond-eligible under § 1226(a). That interpretation strips courts of their historic habeas role, nullifies due process, and punishes conduct long since completed by attaching a new and severe deprivation of liberty.

Habeas corpus exists precisely to prevent this kind of executive overreach. Where, as here, detention serves no legitimate regulatory purpose, is untethered from danger or flight risk, and contradicts settled law and practice, continued confinement becomes punitive and unconstitutional.

For these reasons, and those stated in the Petition and Reply, the Court should grant the writ and order Petitioner's immediate release. At a minimum, the Court should require a prompt

bond hearing under 8 U.S.C. § 1226(a), with the burden on the Government to justify continued detention.

Date: 12/16/2025

Respectfully submitted,
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By his Counsel,

//s// Elizabeth Shaw
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Camilo Luis Garcia, and submit this verification on his behalf. I hereby verify that the foregoing Reply was served on Respondents via EM/CF on this day.

Date: 12/16/2025

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