UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

AFSHIN MASHELI Petitioner, v. KEVIN RAYCRAFT, in his official capacity as 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, Respondents.	Case No. Hon. **PETITION FOR WRIT OF HABEAS CORPUS**

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

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

Other Authorities

ISSUES PRESENTED

1. Whether § 1226(a), not § 1225(b)(2)(A), governs detention of long-resident noncitizens apprehended in the interior and thus entitles Petitioner to a bond hearing.
2. Whether detaining Petitioner without an individualized bond determination violates the Fifth Amendment's Due Process Clause.
3. Should this Court, like all others that have considered such claims, exercise its discretion to waive prudential exhaustion requirements and proceed to the merits of Petitioner's habeas corpus petition, which raises urgent statutory and constitutional claims regarding Petitioner's ongoing unlawful detention?

CONTROLLING OR MOST APPROPRIATE AUTHORITY

28 U.S.C. § 2241; 8 U.S.C. § 1226; U.S. Const. amend. V.

Primary Statutory & Constitutional Provisions

28 U.S.C. § 2241

8 U.S.C. § 1231

8 U.S.C. § 1226

U.S. Const. amend. V

Post-Order Detention & Reasonably Foreseeable Removal

Zadvydas v. Davis, 533 U.S. 678 (2001) (holding that post-order detention under § 1231(a)(6) is limited to a period reasonably necessary to effectuate removal, and detention beyond six months is presumptively unreasonable absent a significant likelihood of removal in the reasonably foreseeable future).

Caselaw Pertaining to Statutory Claims (Structure of INA / § 1225 vs. § 1226 vs. § 1231)

Jennings v. Rodriguez, 583 U.S. 281 (2018) (explaining that § 1226(a) applies to those "already in the country" who are detained "pending the outcome of removal proceedings," while § 1225(b) governs inspection at the border).

King v. Burwell, 576 U.S. 473 (2015) (statutes must be read "in their context and with a view to their place in the overall statutory scheme").

United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365 (1988) (courts interpret ambiguous provisions in harmony with the structure and purpose of the statute).

Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393 (2010).

Abramski v. United States, 573 U.S. 169 (2014).

Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

Lopez-Campos v. Raycraft, --- F. Supp. 3d ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).

Pizarro Reyes v. Raycraft, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

Caselaw Pertaining to Due Process and Civil Detention

Zadvydas v. Davis, 533 U.S. 678 (2001).

United States v. Salerno, 481 U.S. 739 (1987).

Mathews v. Eldridge, 424 U.S. 319 (1976).

Foucha v. Louisiana, 504 U.S. 71 (1992).

Kansas v. Hendricks, 521 U.S. 346 (1997).

Hamdi v. Rumsfeld, 542 U.S. 507 (2004).

Leng May Ma v. Barber, 357 U.S. 185 (1958).

Caselaw Pertaining to Prudential Exhaustion & Habeas

Shearson v. Holder, 725 F.3d 588 (6th Cir. 2013).

Shalala v. Illinois Council on Long Term Care, 529 U.S. 1 (2000).

McCarthy v. Madigan, 503 U.S. 140 (1992).

Bangura v. Hansen, 434 F.3d 487 (6th Cir. 2006).

McGee v. United States, 402 U.S. 479 (1971).

Sterkaj v. Gonzales, 439 F.3d 273 (6th Cir. 2006).

Fay v. Noia, 372 U.S. 391 (1963).

Cooper v. Zych, No. 09-CV-11620, 2009 WL 2711957 (E.D. Mich. Aug. 25, 2009).

Hechavarria v. Whitaker, 358 F. Supp. 3d 227 (W.D.N.Y. 2019).

Other Authorities

62 Fed. Reg. 10,312 (Mar. 6, 1997) (IIRIRA implementing regulations, including bond eligibility for non-"arriving" noncitizens).

H.R. Rep. No. 104-469 (1996).

Kyle Cheney & Myah Ward, Trump's new detention policy targets millions of immigrants. Judges keep saying it's illegal, Politico (Sept. 20, 2025).

INTRODUCTION

Had Petitioner been arrested before July 2025, the government would have afforded him a bond hearing under § 1226(a). Respondents now invoke § 1225(b)(2) to deny bond categorically. Courts—including in this District—have rejected that view and required bond hearings or release. The Court should do the same here.

BACKGROUND

Afshin Masheli (A# [redacted] is a national of Iran; he entered lawfully in approximately 1991 on a B-1/B-2 visitor visa and has been a lawful permanent resident since approximately 1995 via his mother's petition. He was detained on June 22, 2025 at North Lake Correctional Facility (Baldwin, Michigan). His declaration recounts 2001 charges for criminal sexual conduct and 2002 convictions with parole in 2007; after ICE custody, he was placed on an Order of Supervision. On June 24, 2025, he signed a travel-document request; to date, no travel document has been issued. He reports that he has not received any 90- or 180-day post-order custody reviews nor a revocation interview/notice.

ICE records corroborate long-term supervision and compliance: release notifications and OSUP forms (2010), Personal Report Records evidencing years of check-ins, and a May 7, 2021 letter confirming compliance. Records also reflect persistent consular barriers to removal to Iran, including a 2018 letter from the Iranian Interests Section stating that a replacement birth record had not been received and citizenship could not be confirmed, and USPS tracking of submissions in July 2019. Petitioner is the daily caregiver for his 82-year-old U.S.-citizen godmother, Mahin Dokht Jalali-Yazdi, who attests to complete dependence on his assistance and to 15 years without violations.

ARGUMENT

The structure, text, and legislative history of the INA make clear that 8 U.S.C. § 1225 applies only to the inspection of recent arrivals at or near the U.S. border and was never meant to encompass long-term residents whom DHS arrests in the interior years after their initial entry. For noncitizens already inside the United States, Congress created two other detention regimes: 8 U.S.C.

§ 1226 for individuals detained "pending the outcome of removal proceedings," Jennings v. Rodriguez, 583 U.S. 281, 289 (2018), and 8 U.S.C. § 1231 for individuals—like Petitioner—with final orders of removal. Both interior-focused statutes stand in sharp contrast to § 1225(b)(2)(A)'s border-inspection regime.

Parsing the specific text of § 1225(b)(2)(A) further confirms that it cannot apply to a long-time lawful permanent resident like Petitioner, who is neither an "applicant for admission" nor "seeking admission" before an "examining immigration officer." And even assuming arguendo that Respondents could somehow bring Petitioner within the literal terms of § 1225(b)(2)(A)—which they cannot—due process would still forbid prolonged civil detention without an individualized custody hearing, particularly where, as here, removal to Iran has not been reasonably foreseeable for well over a decade and DHS has repeatedly failed to obtain travel documents.

Finally, any suggestion that Petitioner must exhaust additional administrative remedies before seeking habeas relief is misplaced. The questions presented here—whether the detention statutes permit Respondents to hold Petitioner under these circumstances and whether the Constitution allows them to do so without meaningful process—are pure questions of law. The agency has already taken a fixed position in analogous cases, and a delay in the administrative process would only prolong the very harm habeas corpus is designed to prevent.

I. The Structure, Text, and Legislative History of the INA Make Clear that § 1225 Applies Only to the Inspection of Recent Arrivals, While § 1226 Governs the Detention of Residents Like Petitioner.

The text, structure, and purpose of the INA all support Petitioner's argument that his detention is governed by the interior-detention statutes—§ 1226 for pre-order detention and § 1231

for post-order detention—and not by § 1225(b)(2)(A), which is limited to border inspections. As courts and the government itself long recognized, § 1226(a) and § 1225(b)(2)(A) work in tandem to cover different categories of noncitizens: § 1226 provides a discretionary detention scheme for individuals who are arrested while "already in the country" and held "pending the outcome of removal proceedings," Jennings, 583 U.S. at 289, while § 1225 (including § 1225(b)(2)(A)) is a processing and inspection scheme that applies to those "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." Id. at 287.

Overlaying that framework, § 1231 governs detention after a removal order becomes final. Section 1231(a)(1) creates a limited "removal period," usually 90 days, during which DHS is expected to effectuate removal. After that period, § 1231(a)(6) allows continued detention only so long as removal remains reasonably foreseeable. In Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court held that to avoid serious constitutional problems, § 1231(a)(6) must be read to authorize post-order detention only for a period reasonably necessary to secure removal, and that detention beyond six months is presumptively unreasonable unless the government can show a significant likelihood of removal in the reasonably foreseeable future. Id. at 699–701.

This division of labor among §§ 1225, 1226, and 1231 is exactly the kind of structural harmony the Supreme Court demands when interpreting statutes. Courts must read provisions "in their context and with a view to their place in the overall statutory scheme." King v. Burwell, 576 U.S. 473, 486 (2015) (quotation omitted). And where a particular reading would "produce[] a substantive effect that is [in]compatible with the rest of the law," that reading must be rejected. United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 371 (1988). Here, only one interpretation gives all three provisions coherent work: § 1225 for border

inspections; § 1226 for pre-order interior detention; and § 1231—constrained by Zadvydas—for post-order detention like Petitioner's.

Section 1225's plain text confirms that it is focused on inspections at or near the border. See generally 8 U.S.C. § 1225(a)–(b), (d). Section 1225 sets out procedures for "inspection[s]" of people "arriving in the United States," id. § 1225(a)(3), (b)(1), (b)(2), (d); repeatedly refers to "examining immigration officer[s]," id. § 1225(b)(2)(A), (b)(4); and addresses "stowaways," "crewm[e]n," and noncitizens "arriving from contiguous territory." Id. § 1225(a)(2), (b)(2)(B), (b)(2)(C). The statute's titles reinforce that focus: § 1225 refers to inspection of "applicants for admission" and "inadmissible arriving" noncitizens, and § 1225(b)(2) is titled "Inspection of other aliens." See Dubin v. United States, 599 U.S. 110, 120–21 (2023) (headings and titles are interpretive tools, especially when they support what the operative text already suggests); Merit Mgmt. Grp., LP v. FTI Consulting, Inc., 583 U.S. 366, 380 (2018) (similar).

By contrast, § 1226(a) is the INA's general interior-detention authority. It authorizes the arrest and detention of noncitizens "on a warrant . . . pending a decision on whether the [noncitizen] is to be removed from the United States," 8 U.S.C. § 1226(a), and the Supreme Court has recognized that § 1226(a) applies to those "already in the country" pending removal proceedings. Jennings, 583 U.S. at 289. Once those proceedings conclude and an order becomes final, § 1231—and not § 1225—governs detention. Section 1231(a)(1) provides a 90-day removal period; § 1231(a)(6) covers any continued detention; and the post-order custody review regulations, 8 C.F.R. §§ 241.4 and 241.13, require DHS to conduct timely reviews and assess whether removal remains reasonably foreseeable.

Petitioner falls squarely within this interior/post-order framework, not § 1225's border-inspection scheme. He lawfully entered the United States on a B-1/B-2 visa in 1991, became a lawful permanent resident in approximately 1995 through his mother's petition, and has resided in the United States ever since. Ex. A (Masheli Decl.). Years ago, he was ordered removed to Iran, but DHS was unable to secure travel documents and instead released him on an Order of Supervision. For roughly fifteen years, Petitioner complied with that supervision while living and working in Michigan and serving as the primary caregiver for his 82-year-old U.S.-citizen godmother. Exs. A, H–I. The agency's own records and letters confirm that it could not remove him to Iran and that he complied with his supervision obligations. Exs. B–G. He is now re-detained not because he has just arrived at a port of entry and is being "inspected," but as a long-time resident subject to a long-final removal order. His detention is therefore governed by § 1231(a) and Zadvydas—not § 1225(b)(2)(A).

The legislative history and implementing regulations confirm this reading. When Congress enacted IIRIRA in 1996, it reorganized the detention provisions but made clear that § 1226 was intended to "restate" the pre-existing detention authority over people already in the country and not lawfully present. See H.R. Rep. No. 104-469, pt. 1, at 229 (1996). Shortly afterward, EOIR promulgated regulations explaining that noncitizens "who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination[,]" and that "inadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge . . . . This procedure maintains the status quo." Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). In other words, even for people who had entered without inspection, the

agency understood that once they were arrested in the interior they were not subject to § 1225's border-inspection regime, but to the discretionary detention regime of § 1226.

That understanding persisted for decades and is reflected in DHS's own charging documents, which distinguish between "arriving" noncitizens and those already "present in the United States." See, e.g., Lopez-Campos v. Raycraft, --- F. Supp. 3d ---, 2025 WL 2496379, at *7–8 (E.D. Mich. Aug. 29, 2025) (discussing the long-standing line between §§ 1225 and 1226). It is also reflected in the recent amendment to § 1226(c) in the Laken Riley Act, which added § 1226(c)(1)(E) to mandate detention for certain "inadmissible" noncitizens—explicitly presuming that § 1226 applies to noncitizens charged as inadmissible. Reading § 1225(b)(2)(A) to swallow up that entire scheme, and to govern the detention of people like Petitioner who have been living in the interior for decades, would "largely nullify a statute Congress enacted this very year" and "must be rejected." Pizarro Reyes v. Raycraft, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025) (quoting Gomes v. Hyde, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025)).

In short, the only reading of the INA that gives coherent effect to all of its detention provisions is that § 1225 covers recent arrivals subject to border inspection, while § 1226 and § 1231 cover people already inside the country—like Petitioner—who are in, or have already completed, removal proceedings. Any attempt to treat Petitioner as if he were an "arriving" applicant subject to § 1225(b)(2)(A) defies the statute's text, structure, legislative history, and longstanding agency practice.

II. Section 1225(b)(2)(A) Cannot Apply Because Petitioner Is Not an "Applicant for Admission" "Seeking Admission" Before an "Examining Immigration Officer."

Even apart from the broader statutory structure, Respondents' attempt to justify Petitioner's detention under § 1225(b)(2)(A) fails at the level of the specific words Congress used. Section 1225(b)(2)(A) authorizes detention only if three distinct requirements are met: the person must be (1) an "applicant for admission" who is (2) "seeking admission" to the United States (3) before an "examining immigration officer." Congress's choice to include all three terms in the same operative clause makes clear that each adds a separate requirement that must be satisfied. See United States ex rel. Polansky v. Exec. Health Res., Inc., 599 U.S. 419, 432 (2023) ("Every clause and word of a statute should, if possible, be given effect.") (cleaned up); TRW Inc. v. Andrews, 534 U.S. 19, 31 (2001); Pulsifer v. United States, 601 U.S. 124, 141 (2024). Petitioner satisfies none of the three.

a) Section 1225(b)(2)(A) Cannot Apply to Petitioner Because He Is Not an "Applicant for Admission."

Section 1225(a)(1) defines an "applicant for admission" as a noncitizen "present in the United States who has not been admitted or who arrives in the United States" at or near a port of entry, or after interdiction at sea. Read in isolation, the first clause of this definition might appear broad. But "we must (as usual) interpret the relevant words not in a vacuum, but with reference to the statutory context, structure, history, and purpose." Abramski v. United States, 573 U.S. 169, 179 (2014) (cleaned up). See also King, 576 U.S. at 486 (terms must be understood "in their context and with a view to their place in the overall statutory scheme") (citation omitted); Kentucky v. Biden, 23 F.4th 585, 603 (6th Cir. 2022) (each word must be given its ordinary meaning "in context"). That is true even where a term is defined in the statute. See Yates v. United States, 574 U.S. 528, 537 (2015).

Section 1225(a)(1)'s definition cannot be torn from the context of § 1225 as a whole. As explained above, § 1225 is embedded within a border-inspection scheme; it addresses "arriving" noncitizens undergoing inspection at the border or its functional equivalent. See Pizarro Reyes, 2025 WL 2609425, at *5 ("The Court finds that the overall context of § 1225 limits the scope of the terms 'applicant for admission' and 'seeking admission.'"); Martinez v. Hyde, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (recognizing a "line historically drawn between these two sections"). The term "applicant for admission" is nowhere used in § 1226, the default detention statute for those already in the interior, which further confirms that Congress reserved "applicant for admission" to the border-inspection context.

Petitioner does not fit that description. He was admitted to the United States in 1991 on a B-1/B-2 visa, later adjusted to lawful permanent resident status, and has lived in this country for decades. Ex. A (Masheli Decl.). He is not at the border presenting himself for inspection; he is a long-time resident arrested in the interior under a long-final removal order. Reading "applicant for admission" to include a person in Petitioner's posture would erase the carefully drawn distinctions between border and interior detention and collapse § 1225 into § 1226 and § 1231.

b. Section 1225(b)(2)(A) Cannot Apply to Petitioner Because He Is Not "Seeking Admission" to the United States.

Even if Petitioner could somehow be labeled an "applicant for admission," § 1225(b)(2)(A) also independently requires that he be "seeking admission" to the United States. The term "seeking admission" is not defined in the INA, which makes the structure and context of § 1225 particularly important. When read in context, courts have consistently held that "seeking admission" describes a narrow class of recent arrivals presenting themselves at or near the border for inspection and initial

entry. See Pizarro Reyes, 2025 WL 2609425, at *5 (holding that "the overall context of § 1225 limits the scope of the terms 'applicant for admission' and 'seeking admission'" to the border settings); Martinez, 2025 WL 2084238, at *8 (same).

The implementing regulations echo this understanding. Those regulations, promulgated shortly after IIRIRA and "remaining consistent over time," Lopez Benitez v. Francis, 2025 WL 2371588, at *7 (S.D.N.Y. Aug. 13, 2025), describe those "seeking admission" as "arriving aliens," 8 C.F.R. § 235.3(c)(1), who are "coming or attempting to come into the United States," 8 C.F.R. § 1.2 (emphasis added). See Martinez, 2025 WL 2084238, at *6 (noting that "arriving alien" in the regulations is "roughly interchangeable with an 'applicant . . . seeking admission'" in § 1225(b)(2)(A)); Salcedo Aceros v. Kaiser, 2025 WL 2637503, at *10 (N.D. Cal. Sept. 12, 2025) (same). As Judge McMillion explained, "seeking admission" refers to "when people are being inspected, which usually occurs at the border, when they are seeking lawful entry into this country." Lopez-Campos, 2025 WL 2496379, at *7.

Petitioner is not "seeking admission" in any ordinary or context-sensitive sense of that phrase. He is not "coming or attempting to come into the United States"; he has been here for decades. He is not approaching a port of entry for inspection; he is a long-time resident who was living in Dearborn, Michigan, caring for his U.S.-citizen godmother when ICE arrested him at his home in June 2025. Ex. A. He wishes to remain in the country he has long called home—not to newly enter it. Accordingly, he cannot be considered to be "seeking admission," and § 1225(b)(2)(A) cannot authorize his detention.

c. Section 1225(b)(2)(A) Cannot Apply to Petitioner Because He Is Not Being "Examined" by an "Immigration Officer."

Section 1225(b)(2)(A) further limits its application to cases where "the examining immigration officer determines that [the noncitizen] is not clearly and beyond a doubt entitled to be admitted." (Emphasis added.) The statute thus presupposes the presence of an "examining immigration officer" conducting an inspection—precisely the border-inspection context discussed above.

The INA's implementing regulations define "immigration officer" as specific employees of the Department of Homeland Security, such as Border Patrol agents, asylum officers, and deportation officers. 8 C.F.R. § 1.2. Notably, the definition does **not** include immigration judges or federal judges, who are employees of the Department of Justice or Article III courts and are covered by separate definitions. Id. Petitioner is not standing before an "examining immigration officer" at or near the border; he is detained in a private prison in the Midwest under a long-final order of removal, with any challenges to that order channeled through the immigration courts and federal courts—not DHS inspectors.

This further underscores that § 1225(b)(2)(A) is a border-inspection provision and that Petitioner's situation is governed instead by the interior-detention scheme of § 1226 and § 1231.

d. The BIA's Recent Decision Upholding Respondents' Practice Is Unavailing.

Respondents may invoke the BIA's recent precedential decision, Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), which concluded that people who "surreptitiously cross into the United States" qualify as "applicants for admission" under § 1225(b)(2)(A) and thus that immigration judges

lack authority to redetermine custody conditions for such individuals. Yajure does not control here for at least three reasons.

First, as numerous courts have already explained, Yajure's interpretation of § 1225 is inconsistent with the INA's text and structure. See, e.g., Pizarro Reyes, 2025 WL 2609425, at *6–7; Beltran Barrera v. Tindall, 2025 WL 2690565, at *5 (W.D. Ky. Sept. 19, 2025); Chogllo Chafla v. Scott, 2025 WL 2688541, at *7–8 (D. Me. Sept. 21, 2025); Valencia Zapata v. Kaiser, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025). As the Northern District of California observed, the BIA's reading "treats the phrases 'applicant for admission' and 'seeking admission' as synonymous, which renders the phrase 'seeking admission' in section 1225(b)(2) superfluous." Valencia Zapata, 2025 WL 2741654, at *10. Other courts have similarly found it "difficult to find that an individual is 'seeking admission' when that noncitizen never attempted to do so." Beltran Barrera, 2025 WL 2690565, at *5.

Second, federal courts are "not bound by the BIA's interpretation" of the INA. Pizarro Reyes, 2025 WL 2609425, at *6. To the contrary, courts "must exercise independent judgment in determining the meaning of statutory provisions." Loper Bright Enters. v. Raimondo, 603 U.S. 369, 394, 412 (2024). Under Skidmore v. Swift & Co., 323 U.S. 134, 140 (1944), the weight accorded to an agency's interpretation depends on "the thoroughness evident in its consideration, the validity of its reasoning, [and] its consistency with earlier and later pronouncements." Here, Yajure is difficult to reconcile with decades of consistent agency practice and a growing wall of district-court decisions rejecting DHS's new reading of § 1225.

Third, and most importantly, Yajure's specific holding does not fit Petitioner at all. Yajure addressed noncitizens who "surreptitiously cross into the United States" without admission or

parole. Petitioner, by contrast, was lawfully admitted on a B-1/B-2 visa in 1991 and became an LPR in approximately 1995. He is a long-time resident with a final order of removal who has lived in the United States for decades and was for many years under an Order of Supervision because DHS could not remove him to Iran. Ex. A. Whatever one thinks of Yajure's reasoning in the EWI context, it does not justify treating a long-time LPR living in Dearborn, Michigan, as if he were an "arriving" applicant at the border. This Court should decline to extend Yajure beyond its own flawed facts.

III. Due Process Requires an Individualized Bond Determination.

Petitioner's ongoing detention also violates the Due Process Clause of the Fifth Amendment. At the "heart" of due process is "the freedom from imprisonment—from government custody, detention, and other forms of physical restraint." Zadvydas, 533 U.S. at 690. Civil detention, unlike criminal punishment, is permissible only in "certain special and narrow nonpunitive circumstances," id. (cleaned up), typically where confinement is necessary to prevent flight or protect the community, and only with adequate procedures to ensure that those conditions are actually met. See United States v. Salerno, 481 U.S. 739, 750 (1987); Foucha v. Louisiana, 504 U.S. 71, 79 (1992); Kansas v. Hendricks, 521 U.S. 346, 357 (1997).

Those principles apply fully in the immigration context. The Supreme Court has made clear that noncitizens—"whether their presence here is lawful, unlawful, temporary, or permanent"—are entitled to due process protections. Zadvydas, 533 U.S. at 693. In Zadvydas, the Court held that prolonged post-order detention under § 1231(a)(6) raises serious constitutional concerns and therefore construed the statute to authorize detention only for a period reasonably necessary to effect removal, with six months as the presumptive limit. Id. at 699–701. When, as here, removal is

not significantly likely in the reasonably foreseeable future, continued detention violates both the statute and the Constitution.

Petitioner's case illustrates exactly the concerns Zadvydas identified. DHS has known for many years that removing him to Iran is extraordinarily difficult, if not impossible. The Iranian Interests Section has previously stated that it could not confirm the civil documentation necessary to issue a passport or travel document; Petitioner and his family have repeatedly submitted documents and forms to the Iranian authorities, as reflected in postal tracking and Iranian civil-status forms; and despite Petitioner signing a further travel-document request on June 24, 2025, no travel document has issued. Exs. B–G. For roughly fifteen years, DHS responded to those realities by releasing Petitioner on an Order of Supervision. Ex. A. Nothing has changed about Iran's practices or Petitioner's nationality status that makes his removal any more likely today than it was during those years of supervised release.

At the same time, Respondents have not provided Petitioner with the procedural protections that due process requires. He has not received a meaningful 90-day or 180-day post-order custody review as required by 8 C.F.R. §§ 241.4 and 241.13; he has not been afforded a revocation interview or a reasoned written explanation for revoking his long-standing Order of Supervision; and he has not had a custody hearing before a neutral decisionmaker to assess whether he presents a flight risk or danger. Ex. A. Under Mathews v. Eldridge, 424 U.S. 319, 334–35 (1976), due process requires balancing (1) the private interest affected; (2) the risk of erroneous deprivation and the probable value of additional procedural safeguards; and (3) the government's interests and the burdens of additional process. Here, all three factors favor Petitioner.

First, the private interest is "the most elemental of liberty interests—the interest in being free from physical detention by one's own government." Hamdi v. Rumsfeld, 542 U.S. 507, 529 (2004). Petitioner is confined in a remote immigration prison, separated from his community and from the 82-year-old U.S.-citizen godmother who depends on him for daily care. Exs. A, H–I. Second, the risk of erroneous deprivation is high: without any meaningful custody review or hearing, there is no record demonstrating that Petitioner is a flight risk or danger, and substantial evidence—his long history of compliance with supervision, his stable residence, his caregiving role, and the near-impossibility of Iranian removal—suggests the opposite. See Lopez Benitez, 2025 WL 2371588, at *12 (finding a high risk of erroneous deprivation where the government had not provided an individualized bond hearing). Third, any administrative burden of providing additional process is minimal, particularly given that DHS and EOIR have conducted custody hearings and post-order custody reviews for decades.

In short, detaining Petitioner indefinitely, without a realistic prospect of removal and without a meaningful custody hearing or compliance with the post-order custody review regulations, violates both § 1231 as interpreted in Zadvydas and the Due Process Clause.

IV. Prudential Exhaustion Should Be Waived.

Where the issues are purely legal, agency relief would be futile, and delay risks prolonged unlawful detention, courts—including this District—waive prudential exhaustion in identical cases. Habeas corpus is "perhaps the most important writ known to the constitutional law," Fay v. Noia, 372 U.S. 391, 400 (1963), and is designed to provide a "swift and imperative remedy" in cases of unlawful detention. Id.; see also 28 U.S.C. § 2243 (requiring courts to act "forthwith" on habeas petitions). When liberty is at stake, "every day that passes is a critical one," Lopez-Campos, 2025 WL 2496379, at *5, and courts in this District have repeatedly waived prudential exhaustion in materially

similar habeas cases. See id.; Pizarro Reyes, 2025 WL 2609425, at *4. This Court should do the same here and proceed directly to the merits of Petitioner's statutory and constitutional claims.

Dated: November 24, 2025

Respectfully submitted,

/s/ Farah Hobballah, Esq.
Farah Hobballah, Esq.
Hobballah Legal Group, PLC
22190 Garrison St., Suite 303Dearborn, MI 48124
Telephone: (313) 443-8999
Facsimile: (313) 731-0210
Counsel for Petitioner