UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANTHONY ESCOBAR PALACIOS	§	
Petitioner,	§	
	§	Civ. No. 4:25-cv-05846
vs.	§	
PAMELA BONDI, United States Attorney General; et al.	§	
Respondents.	§	

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO THE COURT'S ORDER TO SHOW CAUSE

I. INTRODUCTION

Respondents ask the Court to deny habeas relief and dismiss this case. In substance, they contend: (1) the Petitioner is "lawfully" detained under INA § 235; 8 U.S.C. § 1225(b)(2), Dkt. 11 at 1, and urge this Court to reconsider its prior ruling, Dkt. 11 at 3; and (2) the petition is not ripe for review because the Petitioner has not exhausted "administrative remedies" since, he "filed a motion for bond" and "was scheduled for a removal hearing on December 18, 2025" Dkt. 11 at 2.

That framing ignores the core fact driving this case—Petitioner did seek release through the mechanism Respondents point to, and the Immigration Judge (IJ) denied bond for lack of jurisdiction on December 9, 2025. Exh. 1 (immigration judge denying bond on lack of jurisdiction). Petitioner is not required to keep relitigating the same jurisdictional barrier (or to wait for parallel class litigation to unfold) while he remains confined without lawful detention

authority. Even under Respondents' own theory, they cannot have it both ways—insisting Petitioner is "mandatory" under § 1225(b)(2), while simultaneously pointing to class-based § 1226(a) bond eligibility as the potential "remedy" that defeats habeas review. The writ should be granted, and Petitioner released.

II. ARGUMENT

A. The Government's Reading of § 1225(b)(2) Has Been Repeatedly Rejected by This District and Is Inconsistent with the Statutory Scheme and Due Process.

Respondents' assertion that Petitioner is "lawfully detained" under 8 U.S.C. § 1225(b)(2) ignores the overwhelming body of recent precedent within this District holding that § 1226(a), not § 1225(b)(2), governs custody for long-resident noncitizens apprehended in the interior of the United States. Courts in the Southern District of Texas have uniformly rejected the Government's new and expansive interpretation of § 1225(b)(2), recognizing that it would obliterate the clear distinction Congress drew between initial-entry processing and post-entry detention under § 1226. *See, e.g.*, *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025) (holding § 1226(a) governs and granting habeas relief requiring prompt § 1226(a) custody process); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025) (rejecting the Government's § 1225(b)(2) theory and ordering § 1226(a) process); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. 2025); *Hernandez Lucero v. Noem*, No. 4:25-cv-03981 (S.D. Tex. 2025); *Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. 2025); *Barrera Martinez v. Noem*, No. 5:25-cv-00164 (S.D. Tex. 2025); *Lopez de Leon v. Harlingen Field Office of ICE & ERO Div.*, No. 5:25-cv-00165 (S.D. Tex. 2025); *Gonzalez Garcia v. Bondi*, No. 5:25-cv-00226 (S.D. Tex. Nov. 26, 2025) (granting habeas relief in part and ordering release without requiring a response to show cause); *Arreola Chavez v. Bondi*, No. 5:25-cv-00227 (S.D. Tex. Dec. 12, 2025) (granting habeas relief and ordering release,

or alternatively a bond hearing); *Espinoza Andres v. Bondi*, No. 4:25-cv-05128 (S.D. Tex. Dec. 2, 2025) (granting habeas in part and ordering a § 1226(a) bond hearing within seven days or release); and *Cruz Gutierrez v. Thompson*, No. 4:25-cv-04695 (S.D. Tex. Nov. 14, 2025) (granting habeas and ordering acceptance of bond payment within twenty-four hours).

Those rulings uniformly recognize that applying § 1225(b)(2) to long-resident interior arrests would render § 1226 superfluous and effectively authorize indefinite detention without process—an interpretation the Constitution cannot sustain. As Judge Ellison explained in *Buenrostro-Mendez*, "§ 1225(b) governs only those arriving at or seeking entry to the United States; to stretch that provision to reach interior arrests would collapse the entire statutory framework of detention." 2025 WL 2886346, at *4.

This very Court in *Cruz Gutierrez v. Thompson*, No. 4:25-cv-04695 (S.D. Tex. Nov. 14, 2025), rejected the same argument the Government advances here, holding that the petitioner was detained under § 1226(a), not § 1225(b)(2), and ordering immediate release upon payment of bond. Similarly, in *Gonzalez Garcia v. Bondi*, No. 5:25-cv-00226 (S.D. Tex. Nov. 26, 2025), the Court granted habeas relief outright, ordering release without even requiring the Government to respond to show cause.

By contrast, the Government relies on two outlier decisions—*Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025), and *Jimenez v. Thompson*, No. 4:25-cv-05026, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025)—both of which departed from the growing consensus across this District, this Circuit, and the nation. Those cases represent exceptions, not the rule, and their reasoning has not been followed in subsequent decisions.

Matter of *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), on which Respondents also rely, does not bind this Court and has been consistently rejected as inconsistent with the plain

language of the statute and the constitutional limits of civil detention. Federal courts within this Circuit have uniformly declined to defer to the Board's erroneous expansion of § 1225(b)(2) to cover non-arriving, long-term residents apprehended in the interior.

In short, the Government's position finds no support in controlling precedent and is incompatible with the structure of the INA and fundamental due-process principles. Petitioner's detention is governed by § 1226(a), and he is entitled to the custody process that statute and the Constitution require—either a prompt individualized bond hearing or release under appropriate conditions of supervision.

B. Bond Hearing, Even Assuming Class Membership Petitioner Is Not Required To "Go Back" and Seek Another

i. Exhaustion in § 2241 is prudential and is excused where remedies are unavailable, wholly inappropriate, or futile

In § 2241 proceedings, exhaustion is a judicially created prudential doctrine—not a jurisdictional bar—and it does not apply mechanically where the alleged remedy is unavailable or futile. The Fifth Circuit has recognized that § 2241 exhaustion may be excused where "available remedies either are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action." *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994).

That is this case. Petitioner sought bond and the IJ denied for lack of jurisdiction on December 9, 2025. Exh. 1. Respondents' "go ask again" position would require Petitioner to burn additional days (or weeks) in custody attempting to re-open a door the Immigration Court has already closed, while the liberty deprivation continues uninterrupted. His December 18, 2025 hearing has now been continued to January 15, 2025. Exh 2 (EOIR Automated Case Information Results).

ii. Having to continue to pursue another bond request is futile, and it is not adequate to prevent ongoing unlawful custody as the immigration court has already denied based on jurisdiction

Respondents' point out that judgment was entered in the class action the he's a class member. That in itself does not identify an *administrative* remedy that must be exhausted before habeas. It does not end this Court's authority to grant habeas relied.. It points to separate federal class litigation. That is not "exhaustion" of agency review; it is a request that Petitioner defer habeas relief and instead attempt to leverage a different federal court's judgment as leverage in immigration custody proceedings.

Even more importantly, Respondents' reliance on the class case underscores why habeas relief is warranted here. The *Maldonado Bautista* final judgment expressly declares that Bond Eligible Class members are detained under § 1226(a) and "are not subject to mandatory detention under § 1225(b)(2)," and it further declares they are entitled to consideration for release on bond and, if not released, a custody redetermination hearing. If Petitioner is a class member, then Respondents' mandatory-detention argument collapses on its own terms. If Respondents truly believe Petitioner is subject to § 1225(b)(2) "mandatory detention," then class membership cannot be their escape hatch to defeat habeas. It is one or the other.

iii. Respondents' position is internally inconsistent and would reward continued unlawful detention

Respondents' response tries to use class membership as both sword and shield: (i) they argue Petitioner is subject to mandatory detention (so the Court should not order relief), but (ii) they simultaneously point to his class-based § 1226(a) bond eligibility alluding that Petitioner supposedly has "another remedy" and therefore the Court should deny habeas. That is precisely why the writ should issue now. Habeas exists to stop unlawful custody, not to require a detainee

to cycle through repetitive, time-consuming steps while the Government continues to detain him under a contested (and, for class members, judicially rejected) theory of authority.

C. Release Is The Proper Remedy Here

i. Every Additional Day of Unlawful Detention Is Irreparable Liberty Harm

Petitioner is suffering a loss of liberty every day he remains confined. Courts in Texas immigration habeas cases have recognized that continued detention itself is a concrete and irreparable harm, and they have ordered release when the Government cannot promptly provide lawful custody process.

ii. Texas federal courts have ordered release (not more delay) where detention lacks lawful footing or lawful process

Indeed, in this District the courts have opted for release if a bond is not provided and release without requiring a new bond request, in *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, 2025 WL 2950097, at *5 (S.D. Tex. Oct. 8, 2025), the court ordered DHS to provide a bond hearing by a date certain and ordered the petitioner's release if the Government failed to do so. Likewise, in *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132, 2025 WL 3045300, at *7 (S.D. Tex. Oct. 15, 2025), the court ordered a bond hearing by a date certain and directed release if Respondents failed to provide the hearing. Most notably, within this same district, the court in *Gonzalez Garcia v. Bondi*, No. 5:25-cv-00226 (S.D. Tex. Dec. 2025), granted the writ outright and ordered immediate release without requiring the Government to show cause or provide further process—recognizing that continued detention under § 1225(b)(2) was unlawful and that release was the only adequate remedy.

Similarly, in the Western District of Texas, courts have directly ordered release as habeas relief where detention lacked lawful authority. *See Rodriguez Lara v. Tate*, No. 5:25-cv-01581-XR (W.D. Tex. Dec. 16, 2025) (granting § 2241 relief and ordering the petitioner's immediate

release); *Santiago Santiago v. Noem*, No. EP-25-CV-361-KC (W.D. Tex. Oct. 1, 2025) (granting habeas relief in part and ordering immediate release); and *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE (W.D. Tex. Nov. 5, 2025) (ordering § 1226(a) process on an emergency timeline and ordering release if Respondents failed to timely provide that process); *Paredes Quintero v. Bondi*, No. 5:25-cv-01697 (W.D. Tex. Dec. 18, 2025)(granting habeas relief and ordering release within 24 hours); *Trejo Enriquez v. Bondi*, No. 1:25-cv-02012 (W.D. Tex. Dec. 19, 2025) (granting habeas relief and ordering release); and *Ramiro Rodriguez v. Bondi*, No. 1:25-cv-01979-RP (W.D. Tex Nov. 22, 2025)(granting habeas relief and ordering release). These decisions reflect a consistent approach across Texas federal courts: when detention is unlawful or when the Government cannot promptly provide lawful custody process, courts have not deferred or required further administrative steps—they have ordered release. The same outcome is warranted here.

III. RELIEF REQUESTED

For the reasons above, Petitioner respectfully requests that the Court grant the writ and order Petitioner's immediate release from custody under appropriate conditions of supervision.

Dated this 22th day of December 2025.

/s/ Maria Nereida Jaimes
Maria Nereida Jaimes
Counsel for Petitioner
Tex. Bar No. 24060351
O'Connor & Associates PLLC
7703 N. Lamar Blvd, Ste. 300
Austin, Texas 78752
Tel: (512) 617-9600
maria@oconnorimmigration.com

CERTIFICATE OF SERVICE

I certify that on December 22, 2025, I served a true and correct copy of the foregoing Petitioner's Reply to Respondents' Response to the Court's Order to Show Cause on all counsel of record via the Court's CM/ECF electronic filing system, which will send notice of electronic filing to registered participants.

Respectfully submitted,

/s/ Maria Nereida Jaimes
Maria Nereida Jaimes
Counsel for Petitioner
Tex. Bar No. 24060351
O'Connor & Associates PLLC
7703 N. Lamar Blvd, Ste. 300
Austin, Texas 78752
Tel: (512) 617-9600
maria@oconnorimmigration.com