UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

YANELY COROMOTO JIMENEZ, Petitioner, v. RANDY TATE, *et al.*, Respondents.	§ § § § § § § § § § §	CIVIL NO. 4:25-cv-6059

RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS AND MOTION TO DISMISS AND, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

The Government[1] hereby responds to Yanely Coromoto Jimenez's habeas petition and respectfully requests that this Court deny her petition under 28 U.S.C. § 2241 and grant summary judgment for the Government under Federal Rule of Civil procedure 56.

First, Petitioner failed to exhaust administrative remedies. This is enough, by itself, to deny her § 2241 petition. Second, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), based on the statute's plain language and structure, the history of the Immigration and Nationality Act (INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including the recent decision in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL

[1] The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

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).

Accordingly, this Court should deny this habeas petition and grant summary judgment for the Government.

I. BACKGROUND

Petitioner is a native and citizen of Venezuela. Dkt. 1 at ¶ 11. In 2021, Petitioner entered the United States without inspection. Dkt. 1 at ¶ 11. U.S. Immigration and Customs Enforcement (ICE) detained Petitioner on November 16, 2025. Dkt. at ¶ 13. ICE served Petitioner with a Notice to Appear ("NTA") charging her with removability pursuant to Immigration and Nationality Act ("INA") section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Dkt. 1-1 at p. 6. In the NTA, the examining immigration official denied Petitioner admission into the United States, explained the basis for charging Petitioner with being subject to removal, and ordered Petitioner to appear in immigration court. *Id.*

On November 25, 2025, an immigration judge denied Petitioner's request for a bond, finding a lack of jurisdiction because Petitioner's detention was governed by INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2). Dkt. 1-1 at p. 18.

II. ARGUMENT

A. PETITIONER FAILED TO EXHAUST HER ADMINISTRATIVE REMEDIES PRIOR TO FILING THE PETITION.

As a threshold matter, the Court should dismiss the habeas petition because Petitioner has not administratively exhausted her claims. In accord with the general rule that parties seeking relief against federal agencies must exhaust administrative remedies prior to seeking judicial relief, it is well-taken that a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *See*, *e.g.*, *Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (holding that a federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies).

In this case, Petitioner had a hearing before an immigration judge. Dkt. 1-1 at p. 18. Petitioner has not appealed that bond denial to the BIA. Petitioner will likely argue that an administrative appeal of the bond decision would be futile in light of *Matter of Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). However, because Petitioner has not appealed the bond denial to the BIA, she has failed to exhaust administrative remedies. *See Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (requiring an appeal in order to satisfy exhaustion requirement); *Abdoulaye Ba v. Director of Detroit Field Office, ICE*, No. 4:25-CV-02208, 2025 WL 2977712, at *2 (N.D. Ohio Oct. 22, 2025) (dismissing for failure to exhaust where petitioner sought "review of the application and interpretation of *Matter of Yajure Hurtado*" but had yet to appeal to the BIA).

B. PETITIONER IS SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

Petitioner's habeas petition should be denied because she falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Here, Petitioner admits that she is

an alien present in the United States who entered the country unlawfully "without inspection." Dkt. 1 at ¶ 11. As discussed below, an alien "present in the United States who has not been admitted," is by definition "an applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that "the alien *shall* be detained" in the case of "an alien seeking admission" who "is not clearly and beyond a doubt entitled to be admitted" (emphasis added)).

1. The Plain Language and Statutory Structure of the INA

"As usual, we start with the statutory text." *Restaurant Law Center v. U.S. Dep't of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

> in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an "applicant for admission", then they are subject to mandatory detention. The INA defines "applicant for admission" as "an alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). Here, was not previously admitted into the United States, and the Petitioner is therefore subject to mandatory detention and is not eligible for a bond. *See Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025).

2. Persuasive decisions from other district courts.

Although the Government acknowledges that many district courts have ruled against the Government on the § 1225(b)(2) issue, including this Court,[2] the Court should consider

[2] Other courts in the Southern District of Texas have issued decisions that reject the Government's position. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (continue)

the recent decisions of several district courts that have adopted the Government's and the BIA's interpretation.

Most recently, another court in the Southern District of Texas decided *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025), in the Government's favor. In denying the habeas petition and granting the Government's motion for summary judgment, the *Cabanas* Court held "[t]he text of § 1225(b)(2)(A) supports the Government's position." The *Cabanas* Court reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5; *see also Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025).[3]

(S.D. Tex. Oct. 7, 2025)(on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

[3] Although many courts originally rejected the Government's interpretation of § 1225(b)(2), including this Court, there is a growing body of case law agreeing with the Government's position. *See Alonzo v. Noem*, -- F. Supp. 3d --, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Andrade v. Patterson*, No. 6:25-cv-01695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025) (Joseph, J.); Ba v. Dir. of Detroit Field Office, No. 4:25-CV-02208, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025) (Calabrese, J.); *Ba v. Dir. of Detroit Field Office*, No. 4:25-CV-02208, 2025 WL 2977712 (N.D. Ohio Oct. 22, 2025) (Calabrese, J.), reconsideration denied, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra Jr., J.); *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (Bencivengo, J.); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025) (Blumenfeld Jr., J.); *Garcia v. Immigr. & Customs Enf't Dep't of Homeland Sec.*, No. 2:25-CV-1004-KCD-NPM, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025) (Dudek, (continue)

C. PETITIONER'S DUE PROCESS CLAIM ALSO FAILS.

With respect to Petitioner's due process claim, it is merely a recast of her disagreement with the Government holding an alien without bond under § 1225(b)(2). Dkt. 1 at ¶¶ 26-34. In other words, Petitioner argues that her due process rights have been violated because the Government lacks the legal authority to detain her. *Id.* Courts have rejected such arguments because pre-removal detention is a lawful part of the deportation process. *See Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025) (in denying a due process claim, noting that "[i]t's thus the 'longstanding view' of the Supreme Court that 'the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings.'" (quoting *Demore v Kim*, 538 US 510, 526 (2003)).

Lastly, Petitioner incorrectly argues that her detention violates the principles of *Zadvydas v. Davis*, 533 U.S. 6787 (2001). Dkt. 1 at ¶ 28. As the Court is aware, the *Zadvydas* framework applies to aliens subject to final removal orders, which the Petitioner is not. She is in pre-removal detention. Thus, *Zadvydas* does not apply. *See, e.g., Sanchez v. Smith*, No. 4:25-

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J.); *Garibay-Robledo v. Noem*, No. 1:25-CV-177-H, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025) (Hendrix, J.); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646 (W.D. La. Oct. 22, 2025), (Whitehurst, M.J.), report and recommendation adopted, 2025 WL 3113644 (W.D. La. Nov. 6, 2025) (Joseph, J.); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025) (Buescher, J.); *Mursalin v. Dedos, Warden*, No. 1:25-cv-00681, 2025 WL 3140824 (D.N.M. Nov. 10, 2025) (Strickland, M.J.); *Olalde v. Noem*, No. 1:25-cv-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025) (Divine, J.); *Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (Joseph, J.); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913 (D. Mass. July 28, 2025) (Gorton, J.); *Ramos v. Lyons*, No. 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025) (Wilson, J.); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (Ludwig, J.); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Suarez v. Noem*, No. 1:25-CV-00202-JMD, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025) (Divine, J.); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025) (Griesbach, J.); *Valencia v. Chestnut*, -- F. Supp. 3d --, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Vargas Lopez v. Trump*, -- F. Supp. 3d --, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (Buescher, J.).

CV-05384, 2025 WL 3687914, at *3 (S.D. Tex. Dec. 19, 2025) ("*Zadvydas* thus doesn't suggest that detention during removal proceedings itself violates due process."). Moreover, the length of detention at issue, since November of 2025, raises no constitutional concerns and is in no way an unconstitutional "indefinite detention."

III. CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court deny Petitioner's request for habeas relief and grant the instant motion.

Dated: January 13, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on January 13, 2026, the foregoing was filed and served on all attorneys of record via the District's ECF system.

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