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

GLORIA CARRANZA ORELLANA,
Petitioner,

v.

BRET BRADFORD, Field Office Director of Enforcement and Removal Operations, Houston Field Office, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; RANDY TATE, Warden of Montgomery Processing Center,

Respondents.

Case No. 25-6075

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO THE PETITION OF WRIT OF HABEAS CORPUS, OPPOSITION TO RESPONDENT'S MOTION TO DISMISS AND OPPOSITION FOR SUMMARY JUDGMENT FOR THE GOVERNMENT

INTRODUCTION

1. Petitioner Gloria Carranza Orellana hereby submits this Reply Brief in response to Respondent's Response [Docket No. 10].

2. Petitioner replies to the issues and arguments made by the Respondents. The absence of any rebuttal is not, however, a waiver or abandonment of any claim or argument made previously. For arguments not addressed herein, Petitioner stands on the arguments presented in her Petition for Writ of Habeas Corpus.

3. Petitioner opposes the motion to dismiss and the grant of summary judgment for the Government.

4. First, exhaustion of administrative remedies does not apply, whereas here, a Petition challenges only the agency action collateral to removal proceedings, such as release on non-monetary conditions and/or bond. 8 U.S.C. § 1252(d)(1) applies only to challenges to a "final order of removal." Therefore, when a noncitizen files a habeas petition challenging detention, bond, custody, or other collateral issues, the exhaustion requirement does not apply. *See Hernandez v. Gonzales*, 204 F. App'x 272, 273–74 (5th Cir. 2006). Exhaustion is not required where the petitioner challenges the legality of detention itself, a matter the agency lacks authority to remedy. *Roy v. Ashcroft*, 389 F.3d 132, 137 (5th Cir. 2004).

5. Even assuming arguendo that exhaustion were required, it would be futile under the circumstances of this case**.** On December 20, 2025, Petitioner Mrs. Gloria Carranza affirmatively requested a custody redetermination and bond hearing before the Immigration Court. On December 29, 2025, the Immigration Judge denied that request, not as a discretionary matter, but for lack of jurisdiction, expressly relying on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That decision is binding on Immigration Judges nationwide. As a result, EOIR has already taken a fixed and definitive position that Immigration Judges lack jurisdiction to conduct a bond

hearing or grant release on bond for noncitizens situated like Petitioner. Because the Immigration Judge's denial was compelled by binding BIA precedent, any appeal to the BIA would necessarily be denied on the same jurisdictional grounds, rendering administrative review entirely futile.

6. Finally, Petitioner challenges the legality of her continued detention and the categorical denial of bond eligibility on constitutional grounds, including due process. The BIA has no jurisdiction to grant relief for constitutional violations or to invalidate binding precedent on constitutional grounds. *See Mathews v. Eldridge*, 424 U.S. 319, 328–30 (1976). Where an agency is powerless to provide the relief requested, exhaustion is not required. Accordingly, requiring Petitioner to pursue further administrative remedies would serve no purpose other than delay and prolonged unlawful detention.

7. Petitioner sought bond, the Immigration Judge denied jurisdiction pursuant to binding BIA precedent, and both EOIR and the BIA have already foreclosed the very relief Petitioner seeks. This Court therefore has jurisdiction under 28 U.S.C. § 2241 and should proceed to adjudicate the merits of Petitioner's habeas petition

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner has resided in the United States since 2005 and was residing in Conroe, Texas, prior to her Detention. Docket No. 1. On or about August 28, 2025, Petitioner was apprehended by ICE while riding as a passenger in a vehicle. The driver of the vehicle allegedly had an outstanding removal order. Petitioner was not driving, was not the subject of any criminal investigation, and had committed no offense at the time of her apprehension. *Id*. Petitioner is now detained at the Montgomery Processing Center in Conroe, Texas. *Id*. DHS placed Petitioner in removal proceedings before the Conroe Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as

someone who entered the United States without inspection. *Id*.

Mrs. Carranza Orellana has resided peacefully in the United States for decades. Petitioner is the mother of four children, including two United States citizen daughters: Michelle Abraham, age 18, and B[redacted] age 9. Petitioner has been the primary caregiver and source of emotional and financial support for her children throughout their lives. *Id.* Following Petitioner's arrest and transfer to the Montgomery Processing Center in Conroe, Texas, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions. *Id.* Petitioner subsequently requested a bond redetermination hearing before an IJ. On December 29, 2025, the IJ denied a bond hearing, stating that she lacked jurisdiction pursuant to *Matter of Yajure Hurtado. Id.* As a result, Petitioner remains in detention. *Id.*

Without relief from this court, she faces the prospect of months, or even years, in immigration custody, separated from her family and community. *Id.* On information and belief, Mrs. Carranza Orellana is eligible for relief from removal, including Cancellation of removal for battered spouses under the Violence Against Women Act ("VAWA"), pursuant to INA § 240A(b)(2), codified at 8 U.S.C. § 1229b(b)(2), and her continued detention serves no legitimate governmental purpose. *Id.*

APPLICABLE LAW

Petitioner incorporates by reference the legal analysis and authorities contained in the Habeas Petition, and the Reply filed contemporaneously herewith shall govern and control the issues raised in connection with this matter. Petitioner argues that the Government is misinterpreting the law and is not applying the correct law in this case. The cases on which Respondents rely do not control the outcome here.

ARGUMENT

Petitioner argues that the Government acknowledges that this Court has rejected its arguments concerning the applicability of § 1225(b)(2). Petitioner respectfully request to consider prior rulings from its own Courts and other Courts where it has recognized that 8 U.S.C. § 1226(a) is applicable to people like Petitioner and not § 1225(b)(2) and therefore has granted Habeas Petitions.

Petitioner requests that this Court consider that she is also seeking to enforce her rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. Petitioner is a member of the Bond Eligible class as she: a) does not have lawful status in the United States and is currently detained at the Montgomery processing Center in Conroe, Texas. She was apprehended by immigration authorities; b) entered the United State without inspection over 25 years ago, was not apprehended upon arrival; and c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. This court should find that Petitioner is not subject to mandatory detention

EXHAUSTION OF ADMINISTRATIVE REMEDIES PRIOR TO THE FILING OF THE HABES PETITION IS NOT REQUIRED

Petitioner argues that this Court should not dismiss the Habeas Petition because exhaustion of administrative remedies is not required. Even if it was required, it would be futile.

First, exhaustion of remedies may be excused when Constitutional claims are involved.

Administrative review would be futile, as the BIA does not have jurisdiction to adjudicate constitutional issues raised here. *See Mathews v. Eldridge*, 424 U.S. 319, 328-30 (1976) (A constitutional challenge to administrative action does not require exhaustion.); *Ramirez Osorio v. INS*, 745 F.2d 937, 939 (5th Cir. 1984) (holding that "exhaustion is not required when administrative remedies are inadequate").

Second, exhaustion does not apply, whereas here, a petition challenges only the agency action collateral to removal proceedings, such as bond. 8 U.S.C. § 1252(d)(1) applies only to challenges to a "final order of removal." Therefore, when a noncitizen files a habeas petition challenging detention, bond, custody, or other collateral issues, the exhaustion requirement does not apply. The Fifth Circuit held that a challenge to immigration bond proceedings is not a challenge to a final order of removal, and therefore §1252(d)(1) does not require exhaustion. *See Hernandez-Ortiz v. Gonzales, 496 F.3d 1042, 1046 (5th Cir. 2007).* Because the petition does not challenge a final order of removal and only seeks review of an IJ bond determination, the Court retains jurisdiction without any statutory exhaustion barrier.

Third, exhaustion is not required where the petitioner challenges the legality of the detention itself, a matter the agency lacks authority to remedy. *Roy v. Ashcroft*, 389 F.3d 132, 137(5th Cir. 2004). Here, the IJ's exercise of authority is clearly at odds - to deny Petitioner release on bond on the ground that the IJ has no jurisdiction or statutory authority pursuant to *Matter of Yajure Hurtado*, nor statutory authority to impose conditions other than monetary conditions directly contravenes the specific language of INA § 236(a) codified in 8 U.S.C. 1226(a), which confers the IJ such authority.

Fourth, the court should find that any administrative exhaustion would be futile. BIA decisions are binding on immigration judges, and *Matter of Yajure Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Petitioner to hold a custody redetermination

hearing. Therefore, judicial intervention enjoining Respondents from preventing Petitioner from having a bond hearing pursuant to the holding in *Yajure Hurtado* is necessary to enable Petitioner to avail herself of her administrative remedies. The IJ already held a custody redetermination hearing and determined that he lacked jurisdiction pursuant to *Matter of Yajure Hurtado.* A remedy of an appeal taken to the BIA from the determination would also be futile pursuant to *Matter of Yajure Hurtado.* Accordingly, the law does not require exhaustion, and even if it did, it would be futile.

Exhaustion does not apply because there was no appealable bond determination, only a categorical jurisdictional bar.

Petitioner does not seek review of a discretionary bond ruling or an adverse custody determination on the merits. Instead, the Immigration Judge expressly declined to exercise authority, holding that he lacked jurisdiction altogether to conduct a custody redetermination or grant bond pursuant to *Matter of Yajure Hurtado*. Where an Immigration Judge denies relief on the ground that no statutory or regulatory authority exists to adjudicate the request, there is no "bond decision" to exhaust. Exhaustion presupposes the existence of an agency decision capable of administrative review; a categorical jurisdictional disclaimer leaves nothing for the agency to reconsider or correct. For this reason alone, exhaustion is independently excused.

The procedural history confirms the absence of any appealable bond ruling. On December 20, 2025, Petitioner Mrs. Gloria Carranza affirmatively requested a custody redetermination and bond hearing. On December 29, 2025, the Immigration Judge denied the request, not as a discretionary denial of bond, and not after weighing flight risk or danger, but solely for lack of jurisdiction, expressly relying on *Matter of Yajure Hurtado*. Because the denial rested entirely on binding precedent that purports to strip Immigration Judges of authority in cases like Petitioner's, EOIR has already adopted a fixed and definitive position that no bond

jurisdiction exists. An appeal to the BIA would not review the merits of custody; it would merely reaffirm the same categorical bar announced in *Matter of Yajure Hurtado*. Exhaustion is therefore not only unnecessary but illusory.

PETITONER IS NOT SUBJECT TO ANY DETENTION AT ALL – IF ANY, NOT MANDATORY DETENTION

Petitioner argues that the Habeas Petition should be granted under the plain language of the provision 8 U.S.C. § 1226(a).

Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). At most, her detention, if authorized at all, falls under 8 U.S.C. § 1226(a), which requires eligibility for individualized bond consideration. Respondents' contrary position rests on a novel and unlawful reinterpretation of the civil immigration detention statutes, first articulated in the July 8, 2025 ICE Memorandum and later adopted in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That interpretation contravenes the plain text, structure, and temporal scope of the Immigration and Nationality Act, and must be rejected under settled principles of statutory construction.

As the Supreme Court made clear in *Jennings v. Rodriguez*, § 1226(a), and its attendant authority to seek release on bond, governs the detention of noncitizens who are already present in the United States and are detained pending the outcome of removal proceedings. 583 U.S. 281, 289 (2018). By contrast, § 1225(b)(2)'s mandatory detention regime operates at the Nation's borders and ports of entry, and applies primarily to noncitizens who are seeking admission at the time of inspection. *Id*. at 287.

Respondents' interpretation unlawfully divorces § 1225(b)(2) from its inspection-and-admission context and converts it into a perpetual detention statute, applicable decades after an individual's entry and long after DHS has elected to place the person into § 240 removal

proceedings. That reading produces absurd results, subjecting any noncitizen who once entered without inspection to mandatory detention at any future point in time, regardless of length of residence, family ties, or procedural posture, and would effect a retroactive expansion of detention authority that Congress neither enacted nor authorized. Nothing in the INA permits DHS to retroactively reclassify a long-present noncitizen as an "applicant for admission" years after entry, and this Court should reject Respondents' interpretation for that reason alone.

Courts across the country, more than two dozen to date, have uniformly rejected Defendants' radical reinterpretation of the statute. Including the recent decisions by this Court; *See Buenrostro-Mendez v. Bondi,* No. 4:25-cv-3726, 2025 WL 2886346 (S.D. Tex. Nov.06, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, 2025 WL 2950097 (S.D. Tex. Oct. 8, 2025); *Mejia Juarez v. Bondi*, No. 4:25cv-3937 (S.D. Tex. Oct. 27,2025); *Cruz Gutierrez v. Thompson*, No. 4:25-cv-04965, 2025 WL 3187521 (S.D. Tex. Nov.14, 2025); *Cardenas Perez v. Noem*, No. 1:25-cv-181, 2025 (S.D. Tex. Nov.20, 2025); *Lopez-Tipaz v. Noem* et al, 4:25-cv-04905 (S.D. Tex. Nov. 25, 2025); *Granados v Noem* et al, 5:25-cv-01464 (W.D. Tex. Nov. 26, 2025); *Ramos de Lara v. Noem* et al., 5:25-cv-01459 (W.D. Tex. Nov. 21, 2025); *Hernandez Hervert v. Bondi,* No. 1:25-cv-01763-RP, 2025 (W.D. Tex Nov. 14, 2025)*; Lopez Baltazar v. Vasquez*, No. 5:25-cv-00160 (W.D. Tex. Oct. 14, 2025.).

Significantly, *see Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), where Petitioner is a member of the Bond Denial Class certified. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. Petitioner is a member of the Bond Eligible class because she does not have lawful status in the United States and is currently detained, she was apprehended by immigration authorities, entered the United State over 25 years ago, was not apprehended upon arrival; and is

not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

The equities here underscore the *Mathews v. Eldridge* balance: (1) Petitioner's profound liberty and family interests; (2) the high risk of erroneous deprivation from DHS's categorical no-bond stance (and the value of individualized hearings); and (3) minimal governmental burden to provide the longstanding process Congress preserved. *See* 424 U.S. 319, 333, 335 (1976).

The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, there is no question that the government has deprived Petitioner of her liberty. Petitioner has a fundamental interest in liberty and being free from official restraint. The government's detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process. Respondents' actions in detaining Petitioner without any legal justification violate the Fifth Amendment. The government's detention of Petitioner is unjustified.

Respondents have not demonstrated that Petitioner needs to be detained. See Zadvydas, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to her community and family. None of Respondents' arguments are relevant to the analysis of the Constitutionality and precedential decisions applicable here.

Additionally, Respondents' continued efforts to deny her bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution. As set forth in the previous Counts, federal regulations and case law provide the procedure for a Respondent in removal proceedings like hers to seek a bond redetermination by an IJ. In being denied the opportunity to

return to her family and pursue Cancellation of Removal for Non-Lawful Permanent Residents in a non-detained court setting where she is free to gather the necessary evidence, Petitioner would be deprived of the right to freedom to lawfully pursue her rights in this civil matter. The Government's "no-review" provisions are a violation of her procedural and substantive due process and without any statutory authority. There is no time frame or procedure for requesting DHS to review its custody decision, and removal proceedings in this case will proceed during that time while the Petitioner remains in custody. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is "contrary to constitutional right, power, privilege or immunity." 5 U.S.C. § 706(2)(B). The regulations at 8C.F.R. §§ 1003.19(h)(1)(B) and 1003.19(h)(2)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted to ICE by Congress at 8 U.S.C. § 1226(a).

For these reasons, this Honorable Court should hold that Petitioner is detained under § 236(a), not § 235(b), and order her immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 236(a) in which Petitioner has a meaningful opportunity to show that she is not a danger or flight risk. Any contrary reliance on *Matter of Yajure-Hurtado* would unlawfully misapply the statute and deprive Petitioner of his rights under the INA, the APA, and the Due Process Clause.

Petitioner urges this Court to apply prior rulings favorable to Petitioner, rulings of multiple Circuits, and other supporting authority.

CONCLUSION

For these reasons, and the reasons stated in the Petition, the Court should GRANT the Petition for Writ of Habeas Corpus and order Petitioner's immediate release or, in the alternative, a bond hearing which places the burden of proof on the government.

Dated this 14th day of January 2026

Respectfully submitted,

/s/ Xavier Vicente Chavez
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Gloria Carranza Orellana, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Reply are true and correct to the best of my knowledge.

Dated this 14th day of January 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Instrument was sent via ECF on this 14th day of January 2026, to all counsel of record.

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