UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Felix Amilcar Ayala Hernandez Petitioner, v. Kristi Noem, et. al Respondents.	No.**8:25-cv-04179-LKG**

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR HABEAS CORPUS AND MOTION TO DISMISS AND OPPOSITION TO TEMPORARY RESTRAINING ORDER

Petitioner Felix Amilcar Ayala Hernandez, by and through undersigned counsel, respectfully submits this Reply in Support of his Petition for a Writ of Habeas Corpus and in Opposition to Respondents' Motion to Dismiss. Respondents' arguments rest on an overbroad reading of jurisdiction-stripping provisions, an erroneous classification of Petitioner as an "applicant for admission" under 8 U.S.C. § 1225, and a misapplication of Supreme Court and Fourth Circuit precedent. None justifies dismissal of this action or continued detention.

I. This Court has Jurisdiction Over Petitioner's Challenge to his Detention

A. § 1252(e)(3) Does not Bar This Court's Review

Respondents first argue that 8 U.S.C. § 1252(e)(3) strips this Court of jurisdiction because Petitioner allegedly challenges the implementation of § 1225. That is incorrect.

Petitioner does not bring a systemic challenge to § 1225 or its regulations. Rather, he brings an as-applied constitutional challenge to his individual detention, including (1) his warrantless arrest, (2) his continued detention without a hearing, and (3) the absence of any individualized determination of flight risk or danger. Courts have repeatedly held that § 1252(e)(3) does not bar district courts from reviewing individualized habeas challenges to detention. *See Jennings v. Rodriguez*, 583 U.S. 218, 238–39 (2018). Moreover, this Court has repeatedly retained jurisdiction over habeas petitions. *See Ngha v. Noem*, No. 8:25-C-V-04055-BAH, 2025 (D. Md. Dec. 11, 2025); *see also Pineda Velasquez v. Noem*, No. GLR-25-3215, 2025 WL 3003684 (D. Md. Oct. 27, 2025).

Nothing in § 1252(e)(3) precludes a district court from adjudicating whether continued physical custody violates the Constitution, particularly where no final order of removal exists.

B. § 1252(g) Does not Strip Jurisdiction Over Warrantless Arrests

Respondents next rely on § 1252(g), asserting that Petitioner's detention "arises from" the decision to commence removal proceedings. The Supreme Court has squarely rejected such an expansive reading.

§ 1252(g) applies narrowly to three discrete acts: the decision to commence proceedings, adjudicate cases, or execute removal orders. *Reno v. AADC*, 525 U.S. 471, 482 (1999). It does not bar review of unconstitutional arrests, unlawful seizures, or prolonged civil detention without due process.

Petitioner challenges the manner of his seizure and the lawfulness of his detention, not the discretionary decision to initiate proceedings. Courts in this District routinely retain jurisdiction over such claims. *See Pineda Velasquez v. Noem*, No. GLR-25-3215, 2025 WL 3003684 (D. Md. Oct. 27, 2025).

C. § 1252(b)(6) Does Not Channel This Habeas Claim to the Court of Appeals

Respondents' reliance on § 1252(b)(9) is likewise misplaced. The Supreme Court has warned against interpreting § 1252(b)(9) as a "**zipper clause**" that swallows all constitutional claims. *Jennings*, *supra*.

Petitioner does not seek review of a removal order (none exists). He seeks release from present physical custody. Habeas review of detention has long been recognized as distinct from review of removal proceedings and remains available in the district court.

II. Petitioner is not Subject to Mandatory Detention Under § 1225

A. Long-Term Presence Defeats § 1225 Classification

Respondents assert that Petitioner, who has lived continuously in the United States since 1997, is an "applicant for admission" subject to mandatory detention under § 1225(b)(2). This position is legally unsound.

District courts in Maryland, inter alia, have repeatedly rejected the argument that individuals apprehended decades after entry, deep in the interior, are "seeking admission" within the meaning of § 1225. *See Maldonado v. Baker*, No. TDC-25-3084, 2025 WL 2968042 (D. Md. Oct. 21, 2025).

Petitioner was not apprehended at a port of entry, was not arriving, and was not in the process of seeking admission. He was seized outside his home while warming his car before work. Treating him as an "applicant for admission" stretches § 1225 beyond its text and purpose.

B. *Matter of Yajure Hurtado* Does not Control This Court

Respondents rely heavily on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) a recent BIA decision. But BIA interpretations do not control constitutional habeas review in Article III courts. Moreover, *Yajure Hurtado* does not resolve the due process issues raised here, nor does it address warrantless arrests or prolonged detention without hearings.

This Court is bound by Supreme Court and Fourth Circuit precedent, not BIA policy shifts.

C. Even if § 1225 Applies, Indefinite Detention Without Process Violates Due Process

Even assuming arguendo that § 1225 governs, **mandatory detention is not constitutionally unlimited**. Civil detention must bear a reasonable relation to its purpose and include adequate procedural safeguards. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Petitioner has: no criminal history alleged, five U.S. citizen children, nearly three decades of residence, serious medical conditions, and no opportunity to contest detention. Moreover, the Supreme Court clearly held in *Mathews v. Eldridge*, 424 U.S. 319, 331 (1976), that "a claim to a pre-deprivation hearing as a matter of Constitutional right rests on the proposition that full relief cannot be obtained at a post-deprivation hearing." No greater Due Process protection exists than the right to liberty or freedom from unlawful detention. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *P.T. v. Hermosillo*, No. 2:2025cv02259 (W.D.W.A); see *also Ngha v. Noem*, No. 8:25-C-V-04055-BAH, 2025 (D. Md. Dec. 11, 2025); *Artiga v. Genalo*, No. 25-cv-05208-OEM, 2025 (E.D.N.Y, 2025). Accordingly, continued detention under these circumstances violates substantive and procedural due process.

III. Petitioner's Fourth Amendment Claim is Properly Before this Court

Respondents contend that habeas relief is unavailable for a warrantless arrest. That is incorrect where, as here, the unlawful arrest directly resulted in ongoing custody.

Petitioner alleges that ICE arrested him without a warrant, without exigent circumstances, and without probable cause, while he was not driving and posed no flight risk. The Fourth Amendment squarely applies to such seizures. Continued detention flowing from an unconstitutional arrest is itself unlawful and properly remedied through habeas.

IV. Conclusion

For the foregoing reasons, Respondents' Motion to Dismiss should be denied. Petitioner has shown that his detention, despite extensive community and family ties, serious medical needs, and no criminal history, constitutes arbitrary civil incarceration that violates due process and the Fourth Amendment. Respondents' reliance on § 1252, § 1225, and *Zadvydas*, *supra, supra,* does not eliminate constitutional scrutiny, and their factual assertions do not warrant dismissal at the pleading stage.

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Deny Respondents' Motion to Dismiss;
2. Grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release on reasonable conditions of supervision; **or**, in the alternative,
3. Order Respondents to provide Petitioner with a prompt, individualized custody hearing before a neutral adjudicator at which the Government bears the burden of justifying continued detention; and
4. Grant such other and further relief as the Court deems just and proper.

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Respectfully submitted,

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