

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

**Jose Guadalupe Vazquez Cordero**

Petitioner,

v.

Warden of Joe Corley Processing Center, *et al.*,

Respondents.

Case No. 4:25-6174

**PETITIONER'S REPLY TO  
RESPONDENT'S RESPONSE TO THE  
PETITION OF WRIT OF  
HABEAS CORPUS, ORDER TO SHOW  
CAUSE AND FOR EXPEDITED  
ANSWER AND OPPOSITION TO  
RESPONDENT'S MOTION TO  
DISMISS AND OPPOSITION FOR  
SUMMARY JUDGMENT**

## INTRODUCTION

Petitioner Jose Guadalupe Vazquez Cordero hereby submits this Reply Brief in response to Respondent's Response to the Petition for Writ of Habeas Corpus, reply to Respondent's response to Order to Show Cause and order for expedited answer and opposition to Respondent's motion to dismiss and for summary judgment [Docket No. 10].

Petitioner replies to the issues and arguments made by the Respondent's. 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 his Petition for Writ of Habeas Corpus, the motion for issuance order to show cause and on the arguments presented in his emergency motion for temporary restraining order and/or preliminary injunction relief.

Petitioner is opposed to the motion to dismiss and the grant of summary judgment. This is because a genuine dispute as to material fact exists and the evidence is such that a reasonable jury could return a verdict to the Petitioner, the nonmoving party. *Rogers v. Bromac Title Servs., L.L.C.*, 755 F.3d 347,350 (5<sup>th</sup> Cir. 2014) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

First, Respondents move for summary judgment, arguing that 1) Petitioner failed to exhaust his administrative remedies; (2) Petitioner is subject to mandatory detention under 8 U.S.C. 1225(b)(2) and (3) that Bautista class action ruling has no preclusive effect. However, Petitioner's disagrees. This Court has recently considered and rejected these arguments in several cases presenting the same legal issue. Significantly in *Lopez-Tipaz v. Noem, et al.*, 4:25-cv-4905 (S.D. Tex. Nov. 25, 2025); *Martinez Mendez v. Noem, et al.*, 4:25-cv-4981 (S.D. Tex. Nov.25, 2025); *Gonzalez Osorio v. Noem, et al.*, 4:25-cv-06127 (S.D. Tex. Dec. 29, 2025). In these cases, among

others the Court concluded that the petitioners were unlawfully detained and entitled to habeas relief. See *Lopez-Tipaz*, 4:25-cv-4905, at 6-7; *Martinez Mendez*, 4:25-cv-4981, at 7; *Gonzalez Osorio v. Noem, et al.*, 4:25-cv-06127. In *Miranda Silva v. Noem, et al.*, 4:25-cv-05784 (S.D. Tex. Dec.15, 2025) this court noted that a district court in the Central District of California certified a class of petitioners similarly situated to Miranda Silva – people like Petitioner and found no reason to depart from its prior decisions or the decisions. In *Miranda Silva* this court enforced the class-action ruling that § 1226(a), not § 1226(b)(2) applies to people like Petitioner. The court’s reasoning applies with equal force here.

Equally important 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 *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); *Roy v. Ashcroft*, 389 F.3d 132, 137 (5th Cir. 2004). 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). Even if administrative exhaustion was required it would be futile. Decisions of the Board of Immigration Appeals (BIA) are binding on immigration judges, and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) thus precludes an IJ from finding jurisdiction over noncitizens like Petitioner to hold a custody redetermination hearing and/or to grant release on bond. Pursuant to *Yajure Hurtado* a remedy of an appeal taken to the BIA from the determination would also be futile. Finally, exhaustion of administrative remedies would be futile in this case because the BIA

has no jurisdiction to adjudicate Constitutional issues raised here. *See Mathews v. Eldridge*, 424 U.S. 319, 328-30 (1976). Therefore, this court should grant Petitioner's § 2241 petition.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Petitioner has resided in the United States since 2018. Docket No. 10. The date he was arrested by ICE he was first stopped during a traffic stop by a Galveston County Sheriff. The deputy contacted ICE and he was subsequently taken to ICE Custody. *Id.* Petitioner is now detained at the Joe Corley 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.* Mr. Vazquez Cordero has resided peacefully in the United States for decades. He is common law married to a U.S. Citizen and has two United States Citizen children. *Id.* Petitioner is neither a flight risk nor a danger to the community. *Id.* Following Petitioner's arrest and transfer to Joe Corley 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 has no disqualifying criminal convictions and is a person of good moral character. *Id.* Pursuant to *Matter of Yajure Hurtado*, the Immigration Judge is unable to consider Petitioner's bond request. *Id.* As a result, Petitioner remains in detention. *Id.* Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community. *Id.* On information and belief, Mr. Vazquez Cordero is eligible for relief from removal, including Asylum, Withholding of Removal and Protection under the Convention Against Torture under INA § 204 codified at 8 U.S.C. §1158 and INA § 241(b)(3) codified at 8 U.S.C. §1231(b)(3).

### **APPLICABLE LAW**

Petitioner incorporates by reference the legal analysis and authorities contained in the Habeas Petition, the Motion for Issuance Order to Show Cause and the Memorandum of Law in Support of the Emergency Motion for a Temporary Restraining Order and/or Preliminary Injunction, 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, 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

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

Petitioners 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. 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 *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); *Roy v. Ashcroft*, 389 F.3d 132, 137 (5th Cir. 2004).

Third, 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).

Fourth, even if administrative exhaustion was required it would be futile. Decisions of the Board of Immigration Appeals (BIA) are binding on immigration judges, and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) thus precludes an IJ from finding jurisdiction over noncitizens like Petitioner to hold a custody redetermination hearing and/or to grant release on bond. Pursuant to *Yajure Hurtado* a remedy of an appeal taken to the BIA from the determination would also be futile.

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 himself of his administrative remedies. Accordingly, the law does not require exhaustion and even if it did it would be futile.

**PETITIONER 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) in fact is not subject to any detention at all - if any it would be under 8 U.S.C. § 1226(a). Respondent’s novel interpretation of the civil immigration detention statutes, as laid out on July 8, 2025, ICE Memorandum (ICE Memo), and the BIA precedential decision, *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), contravenes the plain language and statutory framework of the Immigration and Nationality Act (INA). As the Supreme Court explained in *Jennings v. Rodriguez*, § 1226(a)—and its authority to seek release on bond—governs the detention of those, like Plaintiffs, who are “already in the country” and are detained “pending the outcome of removal proceedings.” 583 U.S. 281, 289 (2018).

By contrast, § 1225(b)(2)’s mandatory detention scheme applies “at the Nation’s borders and ports of entry” primarily to noncitizens “seeking to enter the country.” *Id.* at 287. DHS cannot retroactively convert an individual in § 240 proceedings into a § 1225(b) detainee because § 1225(b) applies only at the time of “inspection and admission,” not years later when placed in removal proceedings.

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); *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.).

### **THIS COURT SHOULD ENFORCE BAUTISTA**

In *Miranda Silva v. Noem*, et al., 4:25-cv-05784 (S.D. Tex. Dec.15, 2025) this court noted that a district court in the Central District of California certified a class of petitioners similarly situated to people like Petitioner and found no reason to depart from its prior decisions or the decisions. In *Miranda Silva* this court enforced the class-action ruling that § 1226(a), not § 1226(b)(2) applies to people like Petitioner. The court's reasoning in *Miranda Silva* applies with equal force here. As such, by virtue of the final judgment issued on December 18, 2025, in *Maldonado Bautista v. Santacruz* this court should determine that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) in fact is not subject to any detention at all - if any it would be under 8 U.S.C. § 1226(a).

### **PETITIONER ASSERTS EVERY CLAIM**

Respondents have deprived Mr. Vazquez Cordero of his liberty interest, protected by the Fifth Amendment, by detaining him since November 09, 2025. Mr. Vazquez Cordero's detention is improper because he shouldn't be detained at all, and the government is depriving him of a bond hearing. A hearing is, if anything, a right to be heard, and here the immigration judge is unable to even consider whether he is even eligible for a bond, despite the law or entertaining counsel's arguments. Like the accused in criminal cases, habeas is proper. *See Moore v. Dempsey*,

261 U.S. 86 (1923); *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Burns v. Wilson*, 346 U.S. 137, 154 (1953).

Consistent with this court prior decisions, this court should deny Respondent's motion for summary judgment and motion to dismiss. Petitioners urge this Court to apply its prior ruling 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.

Date: January 9, 2026

Respectfully submitted,

/s/ Xavier Vicente Chavez

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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Jose Guadalupe Vazquez Cordero, and submit this verification on his 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 09th 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 January 09, 2026, to all counsel of record.

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