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

RUBEN VERDUZCO BENITEZ 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; MARTIN FRINK, Warden of Houston Contract Detention Facility, Respondents.	Case No. 25-6178 **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 Ruben Verduzco Benitez respectfully submits this Reply in response to Respondents' Response to the Petition for Writ of Habeas Corpus and Motion for Summary Judgment [Dkt. 8], pursuant to the Court's Order entered December 23, 2025.

2. Respondents' opposition rests on the categorical theory that long-present noncitizens placed in INA § 240 removal proceedings may nevertheless be subjected to detention under 8 U.S.C. § 1225(b)(2)—without access to any individualized custody determination—years after their entry into the United States. That position cannot be reconciled with the text and structure of the INA, Supreme Court precedent, or the growing body of decisions from this District holding that similarly situated petitioners are detained under 8 U.S.C. § 1226(a) and are therefore entitled to bond hearings.

3. Petitioner responds herein to the arguments raised by Respondents. Any argument not expressly addressed is not waived. Rather, Petitioner incorporates by reference and continues to rely upon the factual allegations, legal arguments, and authorities set forth in the Petition for Writ of Habeas Corpus [Dkt. 1].

4. Petitioner opposes Respondents' request for summary judgment. Respondents have failed to carry their burden of establishing the legality of Petitioner's continued detention or to rebut the statutory, constitutional, and administrative law violations alleged. Instead, Respondents ask this Court to endorse an interpretation of the detention statutes that would allow DHS to retroactively transform interior, long-term residents into "arriving aliens," thereby stripping them of the procedural protections Congress expressly provided under § 1226(a).

5. As a threshold matter, exhaustion of administrative remedies does not apply where, as here, the habeas petition challenges detention and custody determinations collateral to removal

proceedings. The exhaustion requirement of 8 U.S.C. § 1252(d)(1) applies only to challenges to a final order of removal. When a noncitizen seeks habeas relief challenging detention, bond eligibility, or the legality of custody, exhaustion is not required. *See Hernandez v. Gonzales*, 204 F. App'x 272, 273–74 (5th Cir. 2006); *Roy v. Ashcroft*, 389 F.3d 132, 137 (5th Cir. 2004). Moreover, exhaustion would be futile here because binding Board precedent precludes Immigration Judges from exercising custody jurisdiction over individuals DHS categorizes under § 1225(b)(2), and the Board lacks authority to adjudicate the constitutional claims raised in this Petition. *See Mathews v. Eldridge*, 424 U.S. 319, 328–30 (1976).

6. Consistent with the Court's Order, Petitioner acknowledges that this Court has recognized that 8 U.S.C. § 1225(b)(2)(A) may apply in certain circumstances. *See*, e.g., *Montoya Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex.); *Maceda Jimenez v. Thompson*, 2025 WL 3265493 (S.D. Tex.). This case, however, presents materially distinguishable facts and additional authority demonstrating that § 1225(b)(2) is being misapplied. Petitioner is a long-present noncitizen apprehended in the interior, placed in § 240 proceedings, and detained without any individualized custody determination, circumstances that place his detention squarely within 8 U.S.C. § 1226(a).

7. Petitioner does not ask this Court to give preclusive effect to any out-of-circuit class action judgment. Rather, Petitioner asks the Court to do exactly what other courts in this District have done: apply the INA as written and reject DHS's attempt to impose mandatory detention where Congress authorized discretionary custody and bond.

FACTUAL AND PROCEDURAL BACKGROUND

8. Petitioner has resided in the United States since 2001 and was residing in Edna, Texas prior to his Detention. Docket No. 1. On November 07, 2025, Petitioner was encountered

and arrested by ICE on his way to work. *Id*. Petitioner is now detained at the Houston Contract Detention Facility in Houston, Texas. *Id*.

9. 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*.

10. Mr. Verduzco Benitez has resided peacefully in the United States for decades. He lives with his U.S. citizen children. *Id.* Petitioner is neither a flight risk nor a danger to the community. *Id.*

11. Following Petitioner's arrest and transfer to Houston Contract Detention Facility in Houston, Texas, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions. *Id.*

12. Petitioner did not request a bond redetermination hearing before the Immigration Judge because such a request would have been futile under binding Board precedent. Immigration Judges are required to follow *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which forecloses jurisdiction to conduct custody redetermination hearings or grant bond to individuals DHS classifies under 8 U.S.C. § 1225(b)(2). As a result, no administrative mechanism exists through which Petitioner could obtain individualized custody review.

13. Accordingly, Petitioner remains in civil immigration detention without access to bond or non-monetary conditions of release. Absent intervention by this Court, Petitioner faces the prospect of prolonged detention—potentially lasting months or years—despite being placed in INA § 240 removal proceedings, and will continue to suffer separation from his family, community, and sources of support without any meaningful custody determination.

14. On information and belief, Mr. Verduzco Benitez is eligible for relief from removal, including Cancellation of Removal for Non-Lawful Permanent Residents under INA § 240(A)(b) codified at 8 U.S.C. §1229b(b). *Id.*

APPLICABLE LAW

15. 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.

16. As set forth below, Respondents' legal position rests on a misinterpretation and misapplication of the governing detention statutes. The authorities on which Respondents rely do not control the outcome of this case because they address materially different factual and procedural circumstances and do not authorize the categorical detention regime Respondents seek to impose here.

ARGUMENT

17. Petitioner does not dispute that this Court has, in certain cases, rejected challenges to the Government's interpretation of 8 U.S.C. § 1225(b)(2). However, the Government itself acknowledges that this Court has also repeatedly held—on materially indistinguishable facts—that long-present noncitizens placed in removal proceedings under INA § 240 are detained pursuant to 8 U.S.C. § 1226(a)**,** not § 1225(b)(2), and are therefore entitled to an individualized custody determination. In those cases, the Court has granted habeas relief.

18. Most recently, a court within the southern district expressly reaffirmed this conclusion in granting habeas relief to a similarly situated petitioner, holding that detention was governed by § 1226(a) rather than § 1225(b)(2), and ordering a bond hearing or release. *See Gonzalez Osario vs. Noem,* No. 4:25-CV-06127 (S.D. Tex. Dec. 29, 2025), *Mendez Velazquez v.*

Noem, No. 4:25-cv-04527 (S.D. Tex. Oct. 30, 2025) (Ellison, J.). The Court reached the same result in *Rivera-Henriquez v. Tate*, No. 4:25-cv-045436 (S.D. Tex. Sept. 26, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Fuentes v. Lyons*, No. 25-cv-00153 (S.D. Tex. Oct. 16, 2025); and *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025).

19. Mr. Verduzco's circumstances align squarely with the petitioners in those cases. He entered the United States without inspection more than twenty-five years ago, was not apprehended at or near the border, and was placed into § 240 removal proceedings long after entry. He is not an "arriving alien," and the Government's attempt to retroactively characterize him as an applicant for admission under § 1225(b)(2) conflicts with both the statutory framework and this Court's recent decisions.

20. Importantly, Petitioner is not asking this Court to disregard its prior rulings or to adopt a categorical rule. Rather, he respectfully asks the Court to reconsider and apply the same fact-specific analysis the Southern District Court has already employed, most notably in *Gonzalez Osario vs. Noem*, No. 4:25-CV-06127 (S.D. Tex. Dec. 29, 2025), and to reach the same conclusion here. The relevant facts are indistinguishable in all material respects.

21. Petitioner further submits that, independent of this Court's own precedent, his detention status is consistent with the statutory rights recognized in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). There, the court issued a declaratory judgment holding that members of the Bond Denial Class are detained under 8 U.S.C. § 1226(a) and therefore may not be categorically denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

22. Mr. Verduzco falls squarely within the class of noncitizens described in that declaratory ruling. He: (a) lacks lawful status and is currently detained at the Houston Contract Detention Facility in Houston, Texas; (b) entered the United States without inspection more than twenty-five years ago and was not apprehended upon arrival; and (c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

23. Petitioner does not ask this Court to enforce the *Maldonado Bautista* judgment as a matter of preclusion. Rather, he invokes it as persuasive authority confirming what this Court has already recognized in multiple cases: that detention of long-present noncitizens in § 240 proceedings is governed by § 1226(a), not § 1225(b)(2), and that categorical no-bond detention is unlawful.

24. Accordingly, consistent with this Court's own precedent and its recent Order granting habeas relief under materially identical circumstances, the Court should find that Mr. Verduzco is not subject to mandatory detention under § 1225(b)(2). The Court should grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release or, in the alternative, a prompt bond hearing under 8 U.S.C. § 1226(a) at which the Government bears the burden of justifying continued detention.

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

25. 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.

26. 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").

27. 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.

28. 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.

29. 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 himself of his administrative remedies. 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.

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

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

31. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2); in fact he 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 Petitioner, who are "already in the country" and are detained "pending the outcome of removal proceedings." 583 U.S. 281, 289 (2018).

32. 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.

33. 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.).

34. 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 he does not have lawful status in the United States and is currently detained, he was apprehended by immigration authorities, entered the United States 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.

35. 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).

36. 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.

37. 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.

38. Additionally, Respondents' continued efforts to deny him 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 his to seek a bond redetermination by an IJ. In being denied the opportunity to return to his family and pursue Cancellation of Removal for Non-Lawful Permanent Residents in a non-detained court setting where he is free to gather the necessary evidence, Petitioner would be

deprived of the right to freedom to lawfully pursue his rights in this civil matter. The Government's "no-review" provisions are a violation of his 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 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 8 C.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 his 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 he 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.

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

THE GOVERNMENT MISCHARACTERIZES PETITIONER'S RELIANCE ON MALDONADO BAUTISTA

40. Respondents devote substantial portions of their briefing to arguing that *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), lacks

preclusive or binding effect in this Court. That argument fundamentally mischaracterizes Petitioner's position and addresses an issue that is not before this Court.

41. Petitioner does not ask this Court to enforce, adopt, or give preclusive effect to the declaratory judgment issued in *Maldonado Bautista*. Nor does Petitioner contend that this Court is bound by that decision. Rather, Petitioner cites *Maldonado Bautista* solely as persuasive authority, consistent with long-standing judicial practice. Federal courts routinely look to reasoned decisions from other jurisdictions for guidance, particularly where those decisions analyze the same statutory framework, address identical detention practices, and confront the same constitutional concerns presented here.

42. Importantly, even if this Court were to set *Maldonado Bautista* aside entirely, Petitioner's claim would still succeed under Supreme Court precedent, Fifth Circuit authority, and the substantial and growing body of district court decisions within this District and nationwide holding that long-present noncitizens placed in § 240 removal proceedings are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2). Those cases recognize that § 1225(b)(2) is a border-inspection provision that cannot be retroactively applied to individuals who entered the United States years or decades earlier and were never apprehended at or near the border.

43. The Government's extensive discussion of habeas jurisdiction, class actions, and issue preclusion therefore misses the core issue in this case: whether DHS may categorically deny Petitioner any opportunity for an individualized custody determination by misclassifying him as subject to mandatory detention under § 1225(b)(2). Courts addressing this precise question—based on materially indistinguishable facts, have repeatedly concluded that such detention exceeds DHS's statutory authority and violates due process.

44. Accordingly, Respondents' jurisdictional and preclusion arguments provide no basis to deny habeas relief. Petitioner's detention must be evaluated under § 1226(a), which preserves the availability of a bond hearing and requires an individualized assessment of danger and flight risk. Because Petitioner has been denied that process entirely, habeas relief is warranted regardless of whether *Maldonado Bautista* is considered, and certainly not foreclosed by the Government's mischaracterization of Petitioner's reliance on that decision.

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 30th day of December 2025

Respectfully submitted,

/s/ Xavier Vicente Chavez
XAVIER VICENTE CHAVEZ, OSB #1601193
State Bar # 24069495
xavier@xavierlawfirm.com
Xavier Law Firm
25775 Oak Ridge Dr. Suite 120
The Woodlands, TX 77380
(281) 296-3741
Counsel for Petitioner

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

I represent Petitioner, Ruben Verduzco Benitez, 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 30th day of December 2025.

/s/ Xavier Vicente Chavez
Counsel for Petitioner
xavier@xavierlawfirm.com
Xavier Law Firm
25775 Oak Ridge Dr. Suite 120
The Woodlands, TX 77380
(281) 296-3741(281) 296-3741

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Instrument was sent via ECF on this 30th day of December 2025, to all counsel of record.

/s/ Xavier Vicente Chavez
Counsel for Petitioner
xavier@xavierlawfirm.com
Xavier Law Firm
25775 Oak Ridge Dr. Suite 120
The Woodlands, TX 77380
(281) 296-3741(281) 296-3741