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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

W.Y.[1],

Petitioner-Plaintiff,

vs.

CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center; PATRICK DIVVER, Field Office Director, San Diego Office of Detention and Removal, U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; and KRISTI NOEM, Secretary, U.S. Department of Homeland Security,

Respondents-Defendants.

Case No.: '25CV3790 AGS JLB

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief

[1] Petitioner will move this Court for leave to proceed under a pseudonym (using the initials W.Y.).

INTRODUCTION

1. Petitioner W.Y. ("Petitioner" or "Mr. W.Y.") is an asylum seeker who is now detained at Otay Mesa Detention Center in San Diego, California. He is a citizen of Ecuador.

2. In approximately 2021, Mr. W.Y. entered the U.S. *See* **Exhibit A**, Form I-862, Notice to Appear dated November 1, 2025 (hereinafter "NTA"); **Exhibit B**, Form I-213, Record of Deportable/Inadmissible Noncitizen dated November 1, 2025 (hereinafter "Form I-213"), at 8-10.

3. Since approximately 2021, Mr. W.Y. has lived free from immigration detention in the U.S. He worked, made friends, and built a community. On information and belief, he did not have any criminal history in the U.S. *See* **Exhibit B**, Form I-213, at 9.

4. In July 2025, the U.S. Department of Homeland Security ("DHS") issued a new policy instructing all U.S. Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Similarly, on September 5, 2025, the Board of Immigration Appeals ("BIA" or "Board") issued a precedent decision, binding on all immigration judges

("IJs"), holding that an IJ has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. On November 1, 2025, Mr. W.Y. was detained during an operation by U.S. Immigration and Customs Enforcement ("ICE") and U.S. Customs and Border Protection ("CBP") in or around Queens, New York. **Exhibit B**, Form I-213, at 2. He was detained, and placed in ICE custody, without notice or an opportunity to be heard. **Exhibit C**, Form I-830E, Notice to EOIR Regarding Noncitizen Address dated November 1, 2025, at 12.

7. On November 1, 2025, Respondents also commenced removal proceedings against Mr. W.Y. in immigration court by filing an NTA before the New York Immigration Court. **Exhibit A,** NTA, at 4.

8. Mr. W.Y.'s NTA includes a charge that he entered the United States without admission or inspection. *Id.*

9. On December 4, 2025, an IJ at Otay Mesa Immigration Court in San Diego, California, denied Mr. W.Y.'s request for bond. **Exhibit D**, Order Denying Bond dated December 4, 2025, at 14 (denying bond because of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and because "Maldonado Bautista remains

pending with the District Court.").

10. On December 18, 2025, the U.S. District Court for the Central District of California issued judgment in *Maldonado Bautista* granting nationwide declaratory relief for noncitizens denied bond under BIA precedent. *Maldonado Bautista, et al. v. Noem, et al.*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, ECF No. 94, at *1 (C.D. Cal. Dec. 18, 2025).

11. Petitioner's ongoing detention without notice or an opportunity to be heard, after living in the U.S. for approximately four years, violates the Fifth Amendment of the U.S. Constitution and the plain language of the Immigration and Nationality Act ("INA").

12. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, without any bond requirement, and for declaratory and injunctive relief to prevent such harms from recurring. In the alternative, Mr. W.Y. requests bond hearing where Respondents will bear the burden of proving danger or flight risk by clear and convincing evidence, especially as Respondents already reported that Mr. W.Y. has no criminal history in the U.S.[2] *See* **Exhibit B**, Form I-213, at 9.

[2] In light of the plethora of decisions in this District and across the nation finding mandatory detention of individuals who have entered without inspection to be unlawful, Petitioner seeks immediate release. Indeed, orders granting a bond hearing, or compliance with bond orders, will likely continue to jeopardize Petitioner's liberty interest. *See, e.g.*, **Exhibit E**, *Puerto Hernandez v. Lynch* District Court Order dated October 28, 2025, at 33 (requiring compliance with bond granted to the petitioner); **Exhibit F**, *Puerto Hernandez* BIA Order dated

Mr. W.Y. also asks this Court to find that Respondents' attempts to detain, transfer, and deport him are in violation of the law, and to immediately issue an order preventing his transfer out of this district.

JURISDICTION

13. This action arises under the Constitution of the United States, the INA, and the Administrative Procedure Act ("APA"). U.S. Const., Art. I, § 9, cl. 2; U.S.C. § 1101, *et seq*.; 5 U.S.C. § 706(2)(A).

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act).

15. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 787 (2001) (same); *Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *2 (S.D. Cal. Oct. 30, 2025); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3 (D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-

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December 12, 2025, at 35-36 (where the BIA vacates an IJ's bond order despite the previously issued writ of habeas corpus in *Puerto-Hernandez v. Lynch*, No. 1:25-CV-1097, 2025 WL 3012033, at *12 (W.D. Mich. Oct. 28, 2025) which granted release pursuant to the IJ's bond order).

01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

16. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Court's inherent equitable powers.

VENUE

17. Venue is proper because Mr. W.Y. is in Respondents' legal and physical custody at Otay Mesa Detention Center in San Diego, California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' legal and physical custody, including his current and ongoing detention under the legal and physical custody of Respondent LaRose, warden of Otay Mesa Detention Center. 28 U.S.C. § 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (habeas petition must be addressed to the federal district court of confinement); *Wairimu v. Dir., Dep't of Homeland Sec.*, No. 19-CV-174-BTM-MDD, 2019 WL 460561, at *2 (S.D. Cal. Feb. 5, 2019) (district of confinement is the preferable forum even if the Court otherwise has personal jurisdiction).

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CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

18. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("It is clear, not only from the language of [28 U.S.C. §§] 2241(c)(3) and 2254(a), but also from the common-law history of the writ, that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody."). The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

20. Mr. W.Y. is "in custody" for the purpose of 28 U.S.C. section 2241 because he was arrested by Respondents and remains in their legal and physical custody at Otay Mesa Detention Center in San Diego, California. He is under Respondents' and their agents' direct control.

PARTIES

21. Mr. W.Y. is a citizen of Ecuador. He entered the U.S. in approximately 2021. He has been in immigration detention since November 2025 after Respondents arrested him without notice or an opportunity to be heard. Mr. W.Y. is currently residing at Otay Mesa Detention Center in San Diego, California, as of the time of the filing of this petition. **Exhibit G**, ICE Detainee Locator dated December 27, 2025, at 38.

22. Respondent Christopher LaRose ("LaRose") is the Senior Warden at Otay Mesa Detention Center in San Diego, California, where Mr. W.Y. is detained. LaRose is responsible for the day-to-day operations and confinement of non-citizens detained at that facility. He acts at the direction of Respondents Divver, Lyons, and Noem. LaRose is a custodian of Mr. W.Y. and is named in his official capacity.

23. Respondent Patrick Divver ("Divver") is the Field Office Director of ICE in San Diego, California. He acts at the direction of Respondents Lyons and Noem. ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens. The San Diego Field Office's area of responsibility includes San Diego and Imperial Counties in California. Respondent Divver is a custodian of Mr. W.Y. and is named in his official capacity.

24. Respondent Todd Lyons ("Lyons") is the Acting Director of ICE, and he has authority over the actions of Respondents LaRose and Divver. ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens. Respondent Lyons is a custodian of Mr. W.Y. and is named in his official capacity.

25. Respondent Kristi Noem ("Noem") is the Secretary of DHS and has authority over the actions of all other DHS Respondents in this case, as well as all operations and federal agencies of DHS, including ICE. In her capacity as Secretary of DHS, Respondent Noem is charged with faithfully administering the immigration and naturalization laws of the United States. 8 U.S.C. § 1103(a). Respondent Noem is a custodian of Mr. W.Y. and is named in her official capacity.

26. Respondent ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens.

27. Respondent DHS is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

28. This action is commenced against Respondents LaRose, Divver, Lyons, and Noem (collectively, "Respondents") all in their official capacities.

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EXHAUSTION OF ADMINISTRATIVE REMEDIES

29. "The exhaustion requirement for habeas claims under Section 2241 is prudential, rather than jurisdictional." *Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *3 (S.D. Cal. Oct. 30, 2025).

30. On December 4, 2025, an IJ denied Petitioner's request for bond from Otay Mesa Detention Center. **Exhibit D**, Order Denying Bond dated December 4, 2025, at 14. Thus, Petitioner has no administrative remedies to exhaust.

31. Further, Mr. W.Y. is challenging the unlawfulness of his detention, independent of any decision made by any IJ in removal proceedings.

32. Given the Immigration Court's denial of Mr. W.Y.'s bond request on jurisdictional grounds, despite the orders regarding the nationwide bond eligible class in *Maldonado Bautista*, a second bond proceeding in U.S. immigration court is unlikely to restore Mr. W.Y.'s liberty interest which is protected by the Due Process Clause of the U.S. Constitution. **Exhibit D**, Order Denying Bond dated December 4, 2025, at 14 (stating that the *Maldonado Bautista* case "remains pending"); *see Martinez Ruiz v. Noem, et al.* No. 3:25-CV-03536-RBM-BJW, 2025 WL 3719888, at *2 (S.D. Cal. Dec. 23, 2025) (granting a noncitizen's similar habeas petition and ruling "it does not make sense to require Respondents to set a new bond hearing before a potentially new immigration judge just to duplicate the same efforts taken at the November 28, 2025 hearing").

33. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr. W.Y.'s constitutional, statutory, and regulatory rights and restore his liberty.

FACTUAL BACKGROUND

34. Mr. W.Y. is a citizen and national of Ecuador. **Exhibit A**, NTA, at 4; **Exhibit B**, Form I-213, at 8.

35. He entered the U.S. in approximately 2021 without admission or parole. **Exhibit B**, Form I-213, at 8-9.

36. On information and belief, over the course of approximately four years, Mr. W.Y. lived and worked in the United States, made friends, and built a community in Connecticut and New York. On information and belief, he has also lived with his U.S. citizen partner in New York while emotionally and financially supporting her and her minor child.

37. On November 1 2025, Respondents conducted a surveillance operation in or around Queens, New York. *Id.* at 8. During that operation, Mr. W.Y. was detained and placed in ICE custody without notice or an opportunity to be heard. *Id.* Respondents' agents promptly interviewed Mr. W.Y., without the presence of his counsel, and collected a DNA sample. *Id.* at 8-9. Although Mr. W.Y. has no criminal history in the U.S., Respondents determined that Mr. W.Y. would remain detained, in their custody, throughout his removal proceedings offered him the option to deport himself. *Id.* at 9-10.

38. On November 1, 2025, Respondents also commenced removal proceedings against W.Y. immigration court by filing an NTA before the New York Immigration Court. **Exhibit A**, NTA, at 4.

39. Mr. W.Y.'s NTA includes a charge that he entered the United States without admission or inspection. *Id.* (citing 8 U.S.C. § 1182(a)(6)(A)(i)).

40. Mr. W.Y. is currently residing in Respondents' custody at Otay Mesa Detention Center in San Diego, California, as of the time of the filing of this petition.

LEGAL FRAMEWORK

41. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

42. Moreover, Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a); *Maldonado Bautista, et al. v. Noem, et al.*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, ECF No. 94, at *1 (C.D. Cal. Dec. 18, 2025).

43. On information and belief, some IJs have informed *Maldonado Bautista* class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not

controlling, and the Office of Immigration Litigation may have instructed IJs to continue following the Board of Immigration Appeals ("BIA") decision *in Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025*). See Maldonado Bautista, et al. v. Noem, et al.*, No. 5:25-cv-01873-SSS-BFM, ECF No. 92, at *9 (C.D. Cal. Dec. 18, 2025); *see also* **Exhibit C**, *Puerto Hernandez* BIA Order dated December 12, 2025 (where the BIA vacates an IJ's bond order despite the previously issued writ of habeas corpus in *Puerto-Hernandez v. Lynch*, No. 1:25-CV-1097, 2025 WL 3012033, at *12 (W.D. Mich. Oct. 28, 2025) granting release pursuant to the IJ's bond order); **Exhibit D**, Order Denying Bond dated December 4, 2025, at 14 (denying Mr. W.Y.'s bond request because of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and because "Maldonado Bautista remains pending with the District Court.").

44. On information and belief, Respondents did not afford Petitioner due process before detaining him, depriving him of his liberty interest, and unlawfully placing him in detention within Respondents' legal and physical custody. *See Euceda Martinez v. LaRose, et al.*, No. 25-CV-3308 JLS (MSB), 2025 WL 3677938, at *4 (S.D. Cal. Dec. 18, 2025) (granting habeas to noncitizen paroled into the U.S. after arriving using CBP One because of the protected liberty interest at issue).

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CAUSES OF ACTION

COUNT ONE

Violation of Fifth Amendment Right to Due Process – Substantive Due Process, U.S. Const. Amend. V.

45. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

46. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

47. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

48. Moreover, Mr. W.Y. has a vital liberty interest in remaining free from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension "has a substantial private interest in remaining out of custody" which includes an interest in "…obtaining necessary medical care, [and] maintaining her relationships in the community…"). While on

release from DHS custody, Mr. W.Y. contributed to the U.S. economy by working and paying taxes.

49. Even if the initial decision to release a non-citizen on from DHS custody is discretionary, "…after that individual is released from custody she has a protected liberty interest in remaining out of custody." *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (quoting *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025)); *see Noori v. LaRose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025) ("In this case, Petitioner is not an "arriving" noncitizen but one that has present in our country for over a year. This substantial amount of time indicates he is afforded the Fifth Amendment's guaranteed due process before removal.").

50. Here, Mr. W.Y. entered the U.S. in approximately 2021, around four years ago. *See* **Exhibit B**, Form I-213, at 2. On information and belief, he lived, worked, and contributed to his community in Connecticut and New York.

51. On November 1, 2025, Respondents' agents arrested Mr. W.Y., depriving him of his liberty interest, and putting him into detained removal proceedings. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest); **Exhibit A**, NTA, at 4. Nor has the government identified any materially changed

circumstances that would warrant detaining Mr. W.Y. **Exhibit B**, Form I-213, at 1-3.

52. The Court must, therefore, order Respondents to release Mr. W.Y. from detention.

53. The Court must also order that Respondents not re-arrest Mr. W.Y. without a hearing before a neutral adjudicator where Respondents will bear the burden of proving by clear and convincing evidence to show that his re-arrest is warranted. During any bond or custody redetermination hearing that occurs, this Court or, in the alternative, a neutral adjudicator, must consider alternatives to detention when determining whether Mr. W.Y.'s re-detention is warranted.

COUNT TWO

Violation of Fifth Amendment Right to Due Process – Procedural Due Process, U.S. Const. Amend. V.

54. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

55. 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).

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56. Mr. W.Y. has a fundamental interest in liberty and being free from official restraint.

57. The government's detention of Mr. W.Y. without notice or an opportunity to be heard before detention violates his right to due process.

58. The government's detention of Mr. W.Y. without a meaningful bond and custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

59. The Court must, therefore, order Respondents to release Mr. W.Y. from detention.

60. The Court must also order that Respondents not re-arrest Mr. W.Y. without a hearing before a neutral adjudicator where Respondents will bear the burden of proving by clear and convincing evidence that his re-arrest is warranted. During any bond or custody redetermination hearing that occurs, this Court or, in the alternative, a neutral adjudicator, must consider alternatives to detention when determining whether Mr. W.Y.'s re-detention is warranted.

COUNT THREE

Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Bond Hearing

61. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

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62. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. *See Maldonado Bautista, et al. v. Noem, et al.,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, ECF No. 94, at *1 (C.D. Cal. Dec. 18, 2025). Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. *See id.*

63. The application of § 1225(b)(2) to bar Mr. W.Y. from receiving a bond redetermination hearing before an IJ violates INA.

COUNT FOUR

Violation of the APA – 5 U.S.C. § 706(2)(A)-(B)
Unlawful Denial of Bond

64. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

65. Under the APA, a court shall "hold unlawful and set aside agency action…" that is "…(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity…" 5 U.S.C. § 706(2)(A)-(B).

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection

or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231. *See Maldonado Bautista, et al. v. Noem, et al.,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, ECF No. 94, at *1 (C.D. Cal. Dec. 18, 2025).

67. The application of § 1225(b)(2) to bar Mr. W.Y. from receiving a bond redetermination hearing before an IJ is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(4) In the alternative, issue an Order requiring Respondents to provide a bond and custody redetermination hearing within 14 days to meaningfully consider his eligibility for release from DHS custody, with Respondents bearing the burden by clear and convincing evidence to show danger of flight risk;

(5) Issue an Order prohibiting the Respondents from transferring Petitioner from this district without the Court's approval;

(6) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

(7) Declare that refusal to allow Petitioner a meaningful bond and custody redetermination hearing violates the INA, APA, Due Process, and the *Maldonado Bautista* declaratory judgment of December 18, 2025;

(8) Award Petitioner's counsel reasonable attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(9) Grant any and all other further relief this Court deems just or proper.

Dated: December 28, 2025

Respectfully Submitted,

/s/ Mihret Getabicha

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Attorney for Petitioner W.Y.

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

I, Mihret Getabicha, represent Petitioner, W.Y., and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Executed on December 28, 2025, in San Diego, California.

/s/ Mihret Getabicha

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Attorney for Petitioner W.Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

W.Y.[1],

Petitioner-Plaintiff,

vs.

CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center; PATRICK DIVVER, Field Office Director, San Diego Office of Detention and Removal, U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; and KRISTI NOEM, Secretary, U.S. Department of Homeland Security,

Respondents-Defendants.

Case No.: '25CV3790 AGS JLB

TABLE OF EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

[1] Petitioner will move this Court for leave to proceed under a pseudonym (using the initials W.Y.).

TABLE OF EXHIBITS

EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [redacted]

Event No: [redacted]9

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS: [redacted] File No: [redacted]

In the Matter of:

Respondent: [redacted] currently residing at:

[redacted] Brooklyn, NEW YORK [redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;

2. You are a native of ECUADOR and a citizen of ECUADOR;

3. You entered the United States at or near Unknown, New Mexico, on or about unknown date;

4. You were not then admitted or paroled after inspection by an Immigration Officer.ORAt that time you arrived at a time or place other than as designated by the Attorney General.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are 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.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

201 VARICK ST, 5TH FL RM 507 NEW YORK, NEW YORK 10014.
(Complete Address of Immigration Court, including Room Number, if any)

on November 26, 2025 (Date) at 8:30 am (Time) to show why you should not be removed from the United States based on the charge(s) set forth above.

B9583 CUNI - SDDO
(Signature and Title of Issuing Officer)

Date: November 1, 2025

New York, NY
(City and State)

EOIR – 2 of 4

DHS Form I-862 (6/22)

Exhibit A
4

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

CBPO

(Signature and Title of Immigration Officer)

refuse to sign

(Signature of Respondent)

Date: 11/1/2025

Certificate of Service

This Notice To Appear was served on the respondent by me on November 1, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

refuse to sign

(Signature of Respondent if Personally Served)

634291 WASHINGTON - CBPO

(Signature and Title of officer)

EOIR – 3 of 4

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 4 of 4

EXHIBIT B

U.S. Department of Homeland Security **Subject ID :** [redacted] **Record of Deportable/Inadmissible Alien**

Family Name (CAPS)	First	Middle
[redacted], [redacted]		

Sex	Hair	Eyes	Cmplxn
M	[redacted]		

Country of Citizenship	Passport Number and Country of Issue	File Number
ECUADOR		[redacted]

Height	Weight	Occupation
[redacted]	[redacted]	Construction

U.S. Address: [redacted] QUEENS, NEW YORK, [redacted]

Scars and Marks:

Date, Place, Time, and Manner of Last Entry: Unknown Date Unknown Time, UNK, WI-Without Inspection

Passenger Boarded at:

F.B.I. Number: [redacted]

Marital Status: ■ Single □ Divorced □ Married □ Widower □ Separated

Number, Street, City, Province (State) and Country of Permanent Residence:

Method of Location/Apprehension: NCA

Date of Birth	Date of Action	Location Code	At/Near	Date/Hour
[redacted] Age: 30	11/01/2025	NYC/NYC	See I-831	11/01/2025 15:00

City, Province (State) and Country of Birth: ECUADOR

AR ☒ Form : (Type and No.) Lifted ☐ Not Lifted ☐

By: M11104 ROSATI

NIV Issuing Post and NIV Number:

Social Security Account Name:

Status at Entry:

Status When Found:

Date Visa Issued:

Social Security Number:

Length of Time Illegally in U.S.:

Immigration Record: NEGATIVE

Criminal Record:

Name , Address, and Nationality of Spouse (Maiden Name, if Appropriate):

Number and Nationality of Minor Children: None

Father's Name, Nationality, and Address, if Known: [redacted] [redacted] NATIONALITY: ECUADOR

Mother's Present and Maiden Names, Nationality, and Address, if Known: [redacted], [redacted] NATIONALITY: ECUADOR

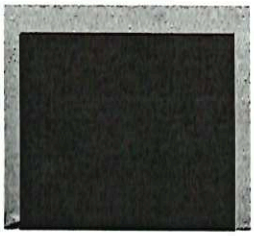
Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted?	Systems Checks	Charge Code Words(s)
None Claimed	☑ Yes ☐ No	See Narrative	See Narrative

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed from/to
See Narrative	Employee	Hr	11/01/2022

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

FIN: [redacted]

Left Index fingerprint



Right Index fingerprint

Subject Health Status

The subject claims good health but suffers from sinus issues.

Current Administrative Charges

11/01/2025 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

RECORDS CHECKED ...(CONTINUED ON I-831)

Alien has been advised of communication privileges: ar (Date/Initials)

G34291 WASHINGTON
CBPO
(Signature and Title of Immigration Officer)

Distribution:

A File

Stats

Copies

Received: (Subject and Documents) (Report of Interview)

Officer: G34291 WASHINGTON

on: November 1, 2025 (time)

Disposition: Warrant of Arrest/Notice to Appear

Examining Officer: CUNI, B9583

Form I-213 (Rev. 08/01/07)

EOIR – 8 of 11

U.S. Department of Homeland Security — Continuation Page for Form I-213

Alien's Name	File Number	Date
[redacted]	[redacted] Event No: [redacted]	11/01/2025

EARM Neg
CIS Neg
TECS Neg

NAME AND ADDRESS OF US EMPLOYER

Independent , Unknown Bronx, NEW YORK, [redacted], UNITED STATES

FUNDS IN POSSESSION

United States Dollar 85.00

AT/NEAR

New York, NY

Record of Deportable/Excludable Alien:

On November 1, 2025, ICE/ERO New York City Fugitive Operations along with Special Agents from the Homeland Security Investigations (HSI), Special Agents from the Federal Bureau of Investigation (FBI) and Officers from US Customs and Border Protection (CBP) were conducting surveillance operations in Queens, New York. Officers and agents were tasked with locating an individual with an I-200 lodged against him.
At approximately 1450 hours, officers and agents began a consensual encounter with an individual to gain information on their intended target outside of [redacted] Queens New York. During the consensual conversation, the subject was identified as [redacted], a citizen and national of Ecuador. [redacted] openly admitted that he was born in Ecuador, is a citizen of Ecuador, illegally entered the United States, and does not have documents allowing him to legally remain in the United States.
At 1500 hours, [redacted] was arrested pursuant to a signed I-200 and taken into ICE/ERO custody. The subject was transported to 26 Federal Plaza, New York, NY 10278 for processing.

ALIENAGE and DEPORTABILITY:
Database queries revealed that [redacted] is a citizen and national of Ecuador. [redacted] does not derive status from his parents, who are citizens and nationals of Ecuador. The subject claims that he has no contact with his father and therefore claims to have no idea of his father's immigration status.

IMMIGRATION HISTORY:
On an unknown date in 2021, [redacted] entered the United States without inspection via the United States- Mexico land border at an unknown location in New Mexico.

CRIMINAL HISTORY:
None

FBI [redacted]
FINS [redacted]

FAMILY HISTORY:
[redacted] claims to have no children or spouse.

PENDING APPLICATIONS:

Signature	Title
G34291 WASHINGTON	CBPO

2 of 3 Pages

Form I-831 Continuation Page (Rev. 08/01/07)

EOIR – 9 of 11

U.S. Department of Homeland Security — Continuation Page for Form I-213

Alien's Name	File Number	Date
[redacted]	[redacted] Event No: [redacted]	11/01/2025

Record checks indicate that [redacted] does not have any pending or approved applications with United States Citizenship and Immigration Services (USCIS) to include any U, T visa and VAWA applications.

CONSULAR NOTIFICATION:
[redacted] was advised of his right to speak with a consular officer from his native country of Ecuador and declined interest; Ecuador is not a mandatory notification country.

PHONE CALL:
[redacted] contacted his girlfriend via phone number [redacted] at 2030 hours.

MEDICAL INFORMATION:
[redacted] claims to be in good health and takes no medications. [redacted] will be screened by IHSC or other contracted service provider for detention evaluation.

[redacted] was offered a meal and water at 1800 hours to which he accepted.
DNA was collected under kit number [redacted].

GANG and TERRORISM AFFILIATIONS:
[redacted] was asked if he was affiliated with any gangs or terrorist organizations and stated that he is not affiliated with any such organizations.

MILITARY:
[redacted] stated that he has never served with any of the United States military branches.

PROPERTY:
[redacted]'s property was inventoried under receipt number [redacted].
[redacted] was in possession of $85.00 which was inventoried under receipt number [redacted].

DISPOSITION:
[redacted] was issued a Notice to Appear and served Forms: I-862 (Notice to Appear), I-826 (Notice of Rights/Request for Disposition, I-200 (Warrant for Arrest of Alien), FD-249 (Fingerprints), DHS-1815 (Notice of Fee Assessment under 8 U.S.C.1815)and provided the Online Detainee Locator System (ODLS) Privacy Notice and a List of Pro Bono Legal Service Providers. Bed space request was approved by a TRO SDDO.
[redacted] will remain in ICE ERO Custody, pending removal proceedings from the United States.
[redacted] was offered incentivized voluntary departure and declined.

Other Identifying Numbers

ALIEN-[redacted]

[redacted]

Signature	Title
G34291 WASHINGTON	CBPO

3 of 3 Pages

Form I-831 Continuation Page (Rev. 08/01/07)

EOIR – 10 of 11

EXHIBIT C

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

NOTICE TO EOIR: ALIEN ADDRESS

Event No: [redacted]

Date: November 1, 2025

To: Enter Name of BIA or Immigration Court I-830 NEW YORK VARICK

Enter BIA or Immigration Court Three Letter Code@usdoj.gov NYV

From: Enter Name of ICE Office NEW YORK, NY, DOCKET CONTROL OFFICE

Enter Street Address of ICE Office DOCKET CONTROL OFFICE NEW YORK 26 FEDERAL PLAZA

Enter City, State and Zip Code of ICE Office NEW YORK, NY

Respondent: Enter Respondent's Name [redacted]

Alien File No: Enter Respondent's Alien Number [redacted]

This is to notify you that this respondent is:

☐ Currently incarcerated by federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:

Enter Name of Institution where Respondent is being detained

Enter Street Address of Institution where Respondent is being detained

Enter City, State and Zip code of Institution where Respondent is being detained

Enter Respondent's Inmate Number

His/her anticipated release date is Enter Respondent's Anticipated Release Date.

☒ Detained by ICE on **Enter Date Respondent was Detained by ICE** at: November 1, 2025

Enter Name of ICE Detention Facility where Respondent is being detained Brooklyn MDC

Enter Street Address of ICE Detention Facility where Respondent is being detained 80 29Th Street

Enter City, State and Zip Code of ICE Detention Facility where Respondent is being detained Brooklyn, NY 11232

☐ Detained by ICE and transferred on **Enter Date Respondent was transferred** to:

Enter Name of ICE Detention Facility where Respondent has been transferred

Enter Street Address of ICE Detention Facility where Respondent has been transferred

Enter City, State and Zip Code of ICE Detention Facility where Respondent has been transferred

☐ Released from ICE custody on the following condition(s):
- ☐ Order of Supervision or Own Recognizance (Form I-220A)
- ☐ Bond in the amount of Enter Dollar Amount of Respondent's Bond
- ☐ Removed, Deported, or Excluded
- ☐ Other

Upon release from ICE custody, the respondent reported his/her address and telephone number would be:

Enter Respondent's Street Address

Enter Respondent's City, State and Zip Code

Enter Respondent's Telephone Number (including area code)

☐ I hereby certify that the respondent was provided an EOIR-33 Form and notified that they must inform the Immigration Court of any further change of address.

ICE Official: Enter Your First, Last Name and Title CBPO G34291 WASHINGTON

EOIR – 1 of 4

ICE Form I-830E (9/09)

Exhibit C
12

EXHIBIT D

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:
[redacted]

To:
Orellana, Paola Daniela
[redacted]
Hauppauge, NY [redacted]

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
12/04/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☑ Denied, because
The respondent entered the United States without inspection, and is subject to mandatory detention under Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). Although the United States District Court for the Central District of California recently granted class certification in Maldonado Bautista v. Noem, No. 5:25 CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), Maldonado Bautista remains pending with the District Court.

☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
- ☐ released from custody under bond of $
- ☐ other:

☐ Other:

Immigration Judge: SAMEIT, MARK 12/04/2025

Appeal: Department of Homeland Security: ☑ waived ☐ reserved
Respondent: ☐ waived ☑ reserved

Appeal Due: 01/05/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : [redacted] | A-Number : [redacted]

Riders:

Date: 12/04/2025 By: Rosa Rodriguez, Court Staff

EXHIBIT E

2025 WL 3012033
Only the Westlaw citation is currently available.
United States District Court, W.D. Michigan, Southern Division.

Jose O. PUERTO-HERNANDEZ, Petitioner,
v.
Robert LYNCH et al., Respondents.

Case No. 1:25-cv-1097
|
Signed October 28, 2025

Synopsis

Background: Noncitizen detainee, a Honduran national, filed a § 2241 habeas petition against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE), Acting Director of ICE, and Secretary of Homeland Security, alleging noncitizen detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated the Immigration and Nationality Act (INA) and Due Process Clause of Fifth Amendment and seeking declaratory and injunctive relief. Government filed motion to dismiss Acting Director of ICE and Secretary of Homeland Security as respondents.

Holdings: The District Court, Paul L. Maloney, J., held that:

[1] INA provision governing Attorney General's exclusive jurisdiction did not preclude district court's jurisdiction over claims of noncitizen detainee alleging his continued detention pending appeal under automatic stay of order by IJ for his release on bond violated INA and Due Process Clause of Fifth Amendment;

[2] INA provision governing Attorney General's exclusive jurisdiction precluded district court's jurisdiction over claims of noncitizen detainee seeking stay of removal from United States under Suspension Clause pending decision on his pending petition for Special Immigrant Juvenile (SIJ) Status;

[3] noncitizen detainee was not required to exhaust his administrative remedies before Board of Immigration Appeals (BIA) prior to bringing § 2241 habeas proceeding;

[4] INA provision governing discretionary detention of noncitizens already in United States pending outcome of removal proceedings, and not INA provision governing mandatory detention of certain noncitizens seeking admission into United States, governs noncitizens who have resided in the United States and were already present within the United States without being admitted or paroled at the time they were apprehended;

[5] noncitizen detainee possessed cognizable private interest in his freedom from detention under Due Process Clause of Fifth Amendment;

[6] noncitizen detainee had substantial risk of erroneous deprivation of private interest in being free from detention; and

[7] interest of government in ensuring noncitizens' appearance at removal proceedings and preventing harms to community did not outweigh private interest of noncitizen detainee in being free from detention.

Petition granted in part and denied in part; motion to dismiss denied.

Procedural Posture(s): Petition for Writ of Habeas Corpus; Motion to Dismiss.

West Headnotes (30)

[1] **Habeas Corpus**

The Suspension Clause of the Constitution guarantees that the writ of habeas corpus is available to every individual detained within the United States, including challenges by noncitizens via § 2241 habeas petitions in immigration-related matters. U.S. Const. art. 1, § 9, cl. 2; 28 U.S.C.A. § 2241.

[2] **Aliens, Immigration, and Citizenship**

The United States government is a carefully crafted system of checked and balanced power within each Branch that serves as the greatest security against tyranny — the accumulation of excessive authority in a single Branch; in keeping with this core principle, the writ of habeas corpus has served as a means of

reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.

[3] **Aliens, Immigration, and Citizenship**

INA provision governing Attorney General's exclusive jurisdiction limits—but does not wholly divest—district courts of jurisdiction to grant § 2241 habeas relief in the context of immigration-related proceedings. 28 U.S.C.A. § 2241.

[4] **Aliens, Immigration, and Citizenship**

INA provision governing Attorney General's exclusive jurisdiction did not preclude district court's jurisdiction over claims of noncitizen detainee, a Honduran national, alleging his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause of Fifth Amendment in his § 2241 habeas petition against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE), Acting Director of ICE, and Secretary of Homeland Security seeking declaratory and injunctive relief; noncitizen detainee did not seek review of discretionary decision to commence proceedings, adjudicate a case, or execute a removal order, he rather sought writ of habeas corpus to challenge his continued detention without bond or constitutionally adequate process pursuant to mandatory detention policy, which fell outside of narrow scope of such INA provision and within district court's jurisdiction. U.S. Const. Amend. 5; Immigration and Nationality Act §§ 236, 242, 8 U.S.C.A. §§ 1226, 1252(g); 28 U.S.C.A. § 2241; 8 C.F.R. § 1003.19(i)(2).

[5] **Aliens, Immigration, and Citizenship**

INA provision governing Attorney General's exclusive jurisdiction precluded district court's jurisdiction over claims of noncitizen detainee, a Honduran national, seeking stay of removal from United States under Suspension Clause pending decision on his pending petition for Special Immigrant Juvenile (SIJ) Status, in his § 2241 habeas petition against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE) and other officials alleging detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause of Fifth Amendment and seeking declaratory and injunctive relief; Suspension Clause, which applied only to core habeas claims seeking release from custody which fell within scope of habeas release when Constitution was drafted and ratified, did not apply to claims seeking relief from removal in immigration context. U.S. Const. art. 1, § 9, cl. 2; U.S. Const. Amend. 5; Immigration and Nationality Act §§ 101, 236, 242, 245, 8 U.S.C.A. §§ 1101(a)(27)(J), 1226, 1252(g), 1255(a), (h); 28 U.S.C.A. § 2241; 8 C.F.R. §§ 204.11(c), 1003.19(i)(2).

[6] **Aliens, Immigration, and Citizenship**

If a petitioner for Special Immigrant Juvenile (SIJ) status is removed from the United States, he would lose all ability to continue to pursue his SIJ status petition under the INA. Immigration and Nationality Act § 101, 8 U.S.C.A. § 1101(a)(27)(J)(i); 8 C.F.R. § 204.11(c).

[7] **Constitutional Law**

The Suspension Clause protects the rights of the detained by a means consistent with the essential design of the Constitution; it ensures that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ of habeas corpus, to maintain the delicate balance of governance that is itself the surest safeguard of liberty. U.S. Const. art. 1, § 9, cl. 2.

[8] **Habeas Corpus**

In the face of otherwise valid jurisdiction-stripping statutes, the Suspension Clause ensures that habeas remains available to ensure that no branch of government detains a person in violation of law. U.S. Const. art. 1, § 9, cl. 2.

[9] **Habeas Corpus**

To determine whether the Suspension Clause applies to make habeas relief available in the face of an otherwise valid jurisdiction-stripping statute, a district court first must determine whether a given § 2241 habeas petitioner is prohibited from invoking the Suspension Clause due to some attribute of the petitioner or to the circumstances surrounding his arrest or detention; then, if not, the court must turn to the question whether the substitute for habeas is adequate and effective to test the legality of the petitioner's detention (or removal). U.S. Const. art. 1, § 9, cl. 2; 28 U.S.C.A. § 2241.

[10] **Aliens, Immigration, and Citizenship**

Where no applicable statute or rule mandates administrative exhaustion by a § 2241 habeas petition, whether to require exhaustion is within the district court's sound judicial discretion, which is referred to as "prudential" discretion, and such a court-made exhaustion rule must comply with statutory schemes and Congressional intent. 28 U.S.C.A. § 2241.

[11] **Administrative Law and Procedure**

A district court may require prudential exhaustion when (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

[12] **Aliens, Immigration, and Citizenship**

Noncitizen detainee, a Honduran national, was not required to exhaust his administrative remedies before Board of Immigration Appeals (BIA) prior to bringing § 2241 habeas proceeding against Director of Detroit Field Office of Immigration and Customs Enforcement (ICE) and other officials alleging detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause and seeking declaratory and injunctive relief; issue presented was legal question of statutory interpretation and did not require record that would be developed if exhaustion was required, court was not bound by or required to give deference to agency interpretation of statute, BIA could not review due process challenge, and it was implausible BIA would change position on scope of INA provision governing mandatory detention of noncitizens seeking admission to United States, precluding meaningful review. U.S. Const. Amend. 5; Immigration and Nationality Act §§ 235, 236, 242, 8 U.S.C.A. §§ 1225, 1226, 1252(g); 28 U.S.C.A. § 2241; 8 C.F.R. § 1003.19(i)(2).

[13] **Aliens, Immigration, and Citizenship**

Both INA provision governing mandatory detention of certain noncitizens seeking admission into United States and INA provision governing discretionary detention of noncitizens already in United States govern detention of noncitizens pending removal proceedings; the critical difference is that the former provides for mandatory detention, while the latter allows for the release of the noncitizen on conditional parole or bond. Immigration and Nationality Act §§ 235, 236, 8 U.S.C.A. §§ 1225, 1226.

[14] **Statutes**

A statute should be construed so that effect is given to all its provisions.

[15] **Statutes**

When engaging in statutory interpretation, a district court's inquiry begins with the statutory text, and ends there as well if the text is unambiguous.

[16] **Statutes**

Statutory ambiguity is not determined by examining provisions in isolation; rather, the meaning, or ambiguity, of certain words or phrases may only become evident when placed in context.

[17] **Statutes**

The words of a statute must be read in their context and with a view to their place in the overall statutory scheme.

[18] **Statutes**

A district court must use every tool at its disposal to determine the best reading of the statute.

[19] **Aliens, Immigration, and Citizenship**

INA provision governing discretionary detention of noncitizens already in United States pending outcome of removal proceedings, and not INA provision governing mandatory detention of certain noncitizens seeking admission into United States, governs noncitizens who have resided in the United States and were already present within the United States without being admitted or paroled at the time they were apprehended. Immigration and Nationality Act §§ 235, 236, 8 U.S.C.A. §§ 1225, 1226.

[20] **Statutes**

Although the terms of a statute may seem unambiguous when viewed in isolation, context matters.

[21] **Statutes**

District courts are instructed to construe statutes, not isolated provisions.

[22] **Constitutional Law**

Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that the Due Process Clause protects. U.S. Const. Amend. 5.

[23] **Aliens, Immigration, and Citizenship**

The Fifth Amendment's due process clause extends to all persons, regardless of status, including noncitizens. U.S. Const. Amend. 5.

[24] **Constitutional Law**

To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, district courts apply the balancing test set forth in *Mathews v. Eldridge*, which requires consideration of the following three factors: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail. U.S. Const. Amend. 5.

[25] **Aliens, Immigration, and Citizenship**

Noncitizen detainee, a Honduran national, possessed cognizable private interest in his freedom from detention under Due Process Clause of Fifth Amendment, as required for his claim that his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated his procedural due process rights under Fifth Amendment; freedom from detention was one of most elemental of liberty interests,

conditions of detainee's confinement did not differ in any material way from criminal incarceration, such that he experienced many of deprivations of incarceration, including loss of contact with friends and family, loss of income earning, lack of privacy, and, most fundamentally, lack of freedom of movement, and invoked automatic stay did not have a certain end date. U.S. Const. Amend. 5; 8 C.F.R. §§ 1003.6(c)(5), (d), 1003.19.

[26] **Aliens, Immigration, and Citizenship**

Noncitizen detainee, a Honduran national, had substantial risk of erroneous deprivation of private interest in being free from detention, as required for his claim that his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated his procedural due process rights under Fifth Amendment; IJ reviewed testimony and evidence at bond hearing that detainee was 18-year-old recent high school graduate who lived at home with his mother, had strong ties to his community, and had no criminal record, IJ made independent decision that detainee was eligible for release from custody under bond of $5,000, under automatic stay provision, decision of IJ was entirely inconsequential, nothing more than an empty gesture, and automatic stay provision stripped process of any impartiality, allowing government to act both as prosecution and judge in making a unilateral and unreviewed decision as to detention. U.S. Const. Amend. 5; 8 C.F.R. § 1003.19.

[27] **Aliens, Immigration, and Citizenship**

Interest of Director of Detroit Field Office of Immigration and Customs Enforcement (ICE) and other officials in ensuring noncitizens' appearance at removal proceedings and preventing harms to community did not outweigh private interest of noncitizen detainee, a Honduran national, in being free from detention, as required for his claim that his continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated his procedural due process rights under Fifth Amendment; government made only highly speculative arguments regarding detainee's risk of flight, continuing to enforce his detention would likely impose more costs upon government via continued funding and oversight of his detention, and government's interests were adequately protected by alternative mechanism in place under INA allowing it to seek a stay before Board of Immigration Appeals (BIA) based on individualized assessment. U.S. Const. Amend. 5; 8 C.F.R. § 1003.19(i)(1).

[28] **Aliens, Immigration, and Citizenship**

District court would decline to dismiss Acting Director of Immigration and Customs Enforcement (ICE) and Secretary of Homeland Security from § 2241 habeas proceedings brought by noncitizen detainee, a Honduran national, against Director of Detroit Field Office of ICE, Acting Director of ICE, and Secretary of Homeland Security, alleging detainee's continued detention pending appeal under automatic stay of order by immigration judge (IJ) for his release on bond violated INA and Due Process Clause of Fifth Amendment and seeking declaratory and injunctive relief; although noncitizen detainee named Director of Detroit Field Office of ICE as a respondent and as detainee's immediate custodian, presence of Acting Director of ICE and Secretary of Homeland Security in action ensured that government maintained authority to enforce district court's grant of habeas relief in the event of a transfer. U.S. Const. Amend. 5; Immigration and Nationality Act §§ 235, 236, 8 U.S.C.A. §§ 1225, 1226; 28 U.S.C.A. § 2241; 8 C.F.R. § 1003.19(i)(2).

[29] **Habeas Corpus**

The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody.

[30] **Habeas Corpus**

Read literally, the language of statutory provision governing power to grant writ of habeas corpus requires nothing more than that the district court issuing the writ have jurisdiction over the custodian; so long as the custodian can be reached by service of process, the court can issue a writ within its jurisdiction requiring that the prisoner be brought before the court for a hearing on his claim, or requiring that he be released outright from custody, even if the prisoner himself is confined outside the court's territorial jurisdiction. 28 U.S.C.A. § 2241(a).

West Codenotes

Unconstitutional as Applied

8 C.F.R. § 1003.19(i)(2)

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OPINION

Paul L. Maloney, United States District Judge

***1** This is a habeas corpus action pursuant to 28 U.S.C. § 2241. It involves the continued detention of a noncitizen pending appeal under an automatic stay of an order for his release on conditions imposed by an immigration judge (IJ) after hearing.

Petitioner Jose O. Puerto-Hernandez is detained by the United States Immigration and Customs Enforcement (ICE) at the North Lake Processing Center (North Lake) in Baldwin, Lake County, Michigan. In his verified petition for writ of habeas corpus and complaint for declaratory and injunctive relief (Pet., ECF No. 1), Petitioner challenges the lawfulness of his detention and asks the Court for the following relief: to issue a writ of habeas corpus ordering Respondents to release Petitioner on bond or to show cause as to why Petitioner should remain detained pursuant to the United States Department of Homeland Security's appeal based solely upon the July 8, 2025, mandatory detention policy memorandum; issue a writ of habeas corpus directing Respondents to pursue a constitutionally adequate process to justify adverse immigration actions against the Petitioner; enjoin Respondents from removing Petitioner from the United States pending the resolution of this case; declare the process as applied to Petitioner by Respondents violates the Due Process Clause of the Fifth Amendment, the INA, the Administrative Procedures Act, and federal regulations; declare that Petitioner may remain in the United States pending adjudication of his self-petition for Special Immigrant Juvenile classification and subsequently pursue adjustment of status upon approval; stay Petitioner's removal from the United States until he exhausts the process, successfully or otherwise, of pursuing relief from removal by virtue of the Special Immigrant Juvenile Status and parole into the country for purposes of adjustment; and to award attorneys' fees and costs for this action. (Pet., ECF No. 1, PageID.41–42.)

On September 29, 2025, the Court entered an order (ECF No. 3) pursuant to 28 U.S.C. § 2243, directing Respondents to show cause as to why the writ of habeas corpus and other relief requested in the petition should not be granted, and directing Petitioner to file a reply. The parties complied, and this matter is before the Court for consideration. For the reasons stated below, the Court will grant Petitioner's petition for writ of habeas corpus, in part, and order Respondents to release Petitioner on bond under the terms set by the IJ. The Court will deny the remainder of the petition as the Court lacks jurisdiction under the INA, § 1252(g), to grant the requested relief.

Discussion

I. Factual Background

The facts of this case are not in dispute. Petitioner is an 18-year-old citizen and national of Honduras, who entered the United States unlawfully with his mother as a child in June of 2019. (Pet., ECF No. 1, PageID.11–12.) United States Border Patrol encountered Petitioner and his mother upon their entry into the United States and served them with Notices to Appear, charging them with inadmissibility

under the Immigration and Nationality Act (INA), but the United States Department of Homeland Security did not file the notices with an immigration court. (Resp., ECF No. 4, PageID.133.)

*2 On August 21, 2024, a New Jersey Superior Court adjudicated Petitioner abandoned and neglected by his father and concluded that it would not be in Petitioner's best interests to return to Honduras. (Pet., ECF No. 1, PageID.12.) On July 9, 2025, Petitioner filed an application for Special Immigrant Juvenile (SIJ) status. (*Id.*; ECF No. 4-2, PageID.170–188.) His petition for SIJ status remains pending. (Pet., ECF No. 1, PageID.3.)

On August 13, 2025, United States Immigration and Customs Enforcement (ICE) stopped Petitioner and arrested and detained him. (*Id.*, PageID.6.) Petitioner is charged with having entered the United States without inspection or parole and not being in possession of a valid immigration document of identity or nationality at the time of apprehension. (*Id.*, PageID.7.) At the time of his arrest, Petitioner had no criminal record or pre-existing orders of removal. (*Id.*, PageID.6.)

On August 15, 2025, Petitioner filed a motion for bond determination before the Elizabeth Immigration Court. (Resp. ECF No. 4, PageID.133.) And, on August 20, 2025, Petitioner filed a second petition for SIJ status, indicating that he was in removal proceedings. (*Id.*, PageID.134; ECF No. 4-3, PageID.190–218.) On August 26, 2025, the Elizabeth Immigration Court held a hearing and granted Petitioner's request for bond (*id.*), ordering that Petitioner be released from custody under bond of $5,000. (Immigration Court Ord., ECF No. 1-2, PageID.45 (Bond Order).)

DHS subsequently filed a notice of intent to appeal custody redetermination, invoking the automatic stay provided for in 8 C.F.R. § 1003.19.(i)(2), which has kept Petitioner in ICE custody. (Resp., ECF No. 4 PageID.133; ECF N0. 1-6, PageID.89.) DHS filed its appeal with the Board of Immigration Appeals (BIA) on September 9, 2025. (ECF No. 1-6, PageID.57–86.)

On September 17, 2025, Petitioner filed his verified petition for writ of habeas corpus and complaint for declaratory and injunctive relief. (Pet., ECF No. 1.) Petitioner names as Respondents Field Office Director of the Detroit Field Office of ICE Robert Lynch, Acting Director of ICE Todd Lyons, and United States Secretary of Homeland Security Kristi Noem. (*Id.*, PageID.12.)

On September 18, 2025, ICE served Petitioner with a notice to appear, charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i)(I). (Resp., ECF No. 4, PageID.134.) Petitioner is currently scheduled to appear before the Detroit Immigration Court on October 27, 2025. (*Id.*, PageID.135.)

II. Habeas Corpus Legal Standard

[1] The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004) (citing U.S. Const., Art I, § 9, cl. 2). The primary habeas corpus statute, 28 U.S.C. § 2241, confers upon the federal courts the power to issue writs of habeas corpus to persons "in custody in violation of the Constitution or laws or treaties of the United States." This includes challenges by non-citizens in immigration related matters. *Zadvydas v. Davis*, 533 U.S. 678, 687, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

III. Jurisdiction

In the September 29, 2025, order to show cause, the Court requested that the parties address the threshold question of the Court's jurisdiction to grant the requested relief. (Ord., ECF No. 3, PageID.130.) Respondents argue that the commencement of removal proceedings by noncitizens who have applied for but have not yet received SIJ status is not reviewable in habeas. (Resp., ECF No. 1, PageID.154–55.) They do not challenge this Court's jurisdiction as it relates to all immigration-related matters but cite 8 U.S.C. § 1252(g) for the proposition that federal courts lack "jurisdiction to review the commencement and adjudication of removal proceedings." (*Id.*) Petitioner contends that, while § 1252(g) may preclude the Court from terminating removal proceedings generally, it poses no bar to Petitioner's request for release from detention pursuant to the bond order of the IJ during the pendency of his removal proceedings. (Reply, ECF No. 5, PageID.236.)

*3 The central question here is whether the Court may exercise jurisdiction over Petitioner's claims. For the following reasons, the Court finds that § 1252(g) does not preclude the Court's review of Petitioner's § 2241 petition to the extent that it requests release from detention, but that

the Court lacks jurisdiction to consider Petitioner's remaining claims.

[2] The United States government is a "carefully crafted system of checked and balanced power within each Branch" that serves as the "greatest security against tyranny — the accumulation of excessive authority in a single Branch." *Mistretta v. United States*, 488 U.S. 361, 381, 109 S.Ct. 647, 102 L.Ed.2d 714 (1989). In keeping with this core principle, "the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *I.N.S. v. St. Cyr*, 533 U.S. 289, 301, 121 S.Ct. 2271, 150 L.Ed.2d 347 (2001). This includes in the course of immigration proceedings.

> Before and after the enactment in 1875 of the first statute regulating immigration, 18 Stat. 477, [federal habeas corpus] jurisdiction was regularly invoked on behalf of noncitizens, particularly in the immigration context.... In case after case, courts answered questions of law in habeas corpus proceedings brought by aliens challenging Executive interpretations of the immigration laws.

Id. at 305–07, 121 S.Ct. 2271 (alteration in original). *See also, e.g., Demore v. Kim*, 538 U.S. 510, 517, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003) (holding that § 1226(e) of the INA limiting judicial review of the Attorney General's discretionary judgments regarding detention and release did not preclude the Court of jurisdiction to grant habeas relief in the context of a challenge to detention under the no-bail provision of the INA); *Zadvydas*, 533 U.S. at 688, 121 S.Ct. 2491 (holding that "§ 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention" under the INA).

Against this historical backdrop of the use of habeas corpus to review unlawful detention in immigration proceedings, Respondents argue that this case falls outside of the scope of the writ under common law. They contend that Petitioner's claim for relief stems from the commencement of removal proceedings and that the scope of habeas review in cases such as Petitioner's has been limited by Congress under 8 U.S.C. § 1252(g).

[3] Enacted in 1996, § 1252 governs "judicial review" of orders of removal. Subsection (g) provides:

> [e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, ... no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g). This statute limits—but does not wholly divest—courts of jurisdiction to grant habeas relief in the context of immigration-related proceedings.

The Supreme Court, in *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999), first examined the scope of § 1252(g) in an action seeking declaratory and injunctive relief against the Attorney General and others related to deportation actions. *Id.* at 473–74, 119 S.Ct. 936. Finding that the newly enacted § 1252 divested the Court of jurisdiction to hear the challenges posed by the respondents, the Court nonetheless rejected the approach advanced by Respondents here. It cautioned that § 1252 does not cover "the universe of deportation claims," but is much narrower: "The provision applies only to three discrete actions that the Attorney General may take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.' " *Id.* at 482, 119 S.Ct. 936. The Court explained that it would be

"implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring to all claims arising from deportation proceedings." *Id.*; *see also* *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 140 S. Ct. 1891, 1907, 207 L.Ed.2d 353 (2020) (reaffirming the "narrow" nature of § 1252(g), and holding that § 1252(g) did not bar an action challenging the rescission of Deferred Action for Childhood Arrivals (DACA), which was "not a decision to 'commence proceedings,' much less to 'adjudicate' a case or 'execute' a removal order.").

***4** Later, in *Jennings v. Rodriguez*, 583 U.S. 281, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018), a majority of the Court explicitly rejected the notion that a habeas challenge to continued detention falls within the scope of § 1252(g): "The concurrence contends that 'detention is an "action taken ... to remove" an alien' and that therefore 'even the narrowest reading of "arising from" must cover' the claims raised by respondents. We do not follow this logic." *Id.* at 295, 138 S.Ct. 830 n.3 (quoting Thomas, J., concurring in part and concurring in judgment). And when faced with this issue, lower courts have overwhelmingly agreed that courts have jurisdiction to entertain habeas challenges to the legality of a noncitizen's detention. *See, e.g., Eliseo v. Olson*, No. 25-3381, 2025 WL 2886729, at *5 (D. Minn. Oct. 8, 2025) (citing, *inter alia*, *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)); *Mosqueda v. Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *3 (C.D. Cal. Sept. 8, 2025); *Kostak v. Trump*, No. 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, —— F.Supp.3d ——, —— – ——, 2025 WL 2430025, at 5–7 (D. Md. Aug. 24, 2025); *Espinoza, et al. v. Kaiser, et al.*, No. 1:25-cv-01101 JLT SKO, 2025 WL 2675785, at *9 (E.D. Cal. Sep. 18, 2025); *See also* *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that § 1252(g) does not bar a habeas claim of "illegal detention" as it is "plainly collateral to ICE's prosecutorial decision to execute Kong's removal"); *Mustata v. U.S. Dep't of Just.*, 179 F.3d 1017, 1019 (6th Cir. 1999) ("We conclude that 8 U.S.C. § 1252(g) does not eliminate jurisdiction over the Mustatas' 28 U.S.C. § 2241 habeas petition."); *Requena-Rodriguez v. Pasquarell*, 190 F.3d 299, 304 (5th Cir. 1999) (holding that § 1252(g) does not bar a habeas review and noting that the Fourth, Sixth, Eighth, Tenth, and Eleventh Circuits have all held the same).

[4] Here too, Petitioner's action requesting a writ of habeas corpus ordering Respondents to release Petitioner on bond does not seek the review of a discretionary decision to "commence proceedings," "adjudicate" a case, or "execute" a removal order. Petitioner seeks a writ of habeas corpus to challenge his continued detention without bond or "constitutionally adequate process" pursuant to the mandatory detention policy. This action falls outside of the narrow scope of § 1252(g) and within this Court's jurisdiction.

[5] Petitioner also asks this Court to declare that he may remain in the United States and to stay his removal from the United States pending a decision on his pending petitions for SIJ status. As discussed above, Respondents argue that § 1252(g) strips the Court of jurisdiction to consider Petitioner's claims, which undoubtedly relate to removal. However, Petitioner invokes the Suspension Clause of the United States Constitution, also known as the Great Writ, as an independent basis for habeas corpus. (Reply, ECF No. 5, PageID.235.)

Petitioner places great emphasis on his pending application for SIJ status. In 1990, Congress established SIJ status "to protect abused, neglected or abandoned children who, with their families, illegally entered the United States, and it entrusted the review of SIJ petitions to USCIS, a component of [the Department of Homeland Security]." *Osorio-Martinez v. Attorney Gen. United States of Am.*, 893 F.3d 153, 163 (3d Cir. 2018) (internal quotation marks and citations omitted). SIJ status provides a pathway to lawful permanent residency: once a juvenile immigrant's SIJ petition is approved, the juvenile immigrant may then apply to adjust their status to lawful permanent resident. 8 U.S.C. § 1255(a), (h).

To qualify for SIJ status, the immigrant must be a person:

> (i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United

States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

*5 (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status ...

R.F.M. v. Nielsen, 365 F. Supp. 3d 350, 361–62 (S.D.N.Y. 2019) (quoting 8 U.S.C. § 1101(a)(27)(J)). Under the SIJ statute, "juvenile" includes individuals up to age 21. *Id.* (citing 8 C.F.R. § 204.11(c)(1)).

[6] Petitioner is under 21 years old, and it is undisputed that he has satisfied the first and second requirements of the statute; all that remains is for consideration and possible consent by the USCIS, as delegate of the Secretary of Homeland Security. Importantly, however, to qualify for SIJ status, applicants must also be physically present in the United States. 8 U.S.C. § 1101(a)(27)(J)(i); 8 C.F.R. § 204.11(c). Thus, should Petitioner be removed from the United States, he would lose all ability to continue to pursue his SIJ status petition. This appears to be the basis for Petitioner's invocation of the Suspension Clause.

[7] **[8]** The Suspension Clause forbids suspension of the writ of habeas corpus "unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. Art. I, § 9, cl. 2. As the Court explained in *Boumediene v. Bush*, 553 U.S. 723, 128 S.Ct. 2229, 171 L.Ed.2d 41 (2008):

> The Clause protects the rights of the detained by a means consistent with the essential design of the Constitution. It ensures that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ, to maintain the 'delicate balance of governance' that is itself the surest safeguard of liberty.

Id. at 745, 128 S.Ct. 2229. This includes in the face of otherwise valid jurisdiction stripping statutes where the Suspension Clause ensures that "[h]abeas remains available to ensure that no branch of government detains a person in violation of law. *See* *Boumediene*, 553 U.S. at 765, 128 S.Ct. 2229 ("[T]he writ ... is itself an indispensable mechanism for monitoring the separation of powers.")." *Eliseo*, 2025 WL 2886729 at *6.

[9] The *Boumediene* Court set forth a two-part inquiry for determining whether the Suspension Clause applies to make habeas relief available in the face of an otherwise valid jurisdiction-stripping statute: (1) the Court must "determine whether a given habeas petitioner is prohibited from invoking the Suspension Clause due to some attribute of the petitioner or to the circumstances surrounding his arrest or detention." *Osorio-Martinez*, 893 F.3d at 166 (internal quotation marks and citations omitted). "Then, if the petitioner is not prohibited from invoking the Suspension Clause, [this Court must] turn to the question whether the substitute for habeas is adequate and effective to test the legality of the petitioner's detention (or removal)." *Id.*

Despite the Court's inclination to find that Petitioner has satisfied each of the foregoing questions, the Suspension Clause nonetheless does not apply. The Court in *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020), clarified that the Suspension Clause applies only to those "core" habeas claims seeking release from custody, which fell within the scope of habeas release "when the Constitution was drafted and ratified." *Id.* at 108, 140 S.Ct. 1959. It does not include claims seeking relief from removal in the immigration context. *Id.* at 119, 140 S.Ct. 1959. Accordingly, in keeping with *Thuraissigiam*, the Court finds that the Suspension Clause does not apply here and, therefore, § 1252(g) precludes the Court's jurisdiction over Petitioner's claims seeking a stay of his removal. The Court will therefore dismiss the remainder of the petition because it lacks jurisdiction over Petitioner's claims which do not seek release from detention.

IV. Exhaustion

*6 Respondents contend that this Court should deny Petitioner's request for habeas corpus relief because Petitioner has not exhausted his administrative remedies. (Resp., ECF No. 4, PageID.132.) Specifically, Respondents argue that Petitioner should first pursue his claims of wrongful detention before the BIA. (*Id.*, PageID.136.) In response, Petitioner argues that there is no precedent requiring exhaustion in cases like this (Reply, ECF No. 5, PageID.236) and requiring Petitioner to first pursue his appeal before the BIA would result in irreparable injury in the face of continued illegal detention and would be futile given the BIA's position articulated in *Matter of Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025) (*id.*, PageID.237). The Court agrees that exhaustion is not mandatory and finds that it will not require exhaustion here.

[10] [11] First, the parties appear to agree that no applicable statute or rule mandates administrative exhaustion by Petitioner. Thus, whether to require exhaustion is within this Court's "sound judicial discretion." *See Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145, 112 S.Ct. 1081, 117 L.Ed.2d 291 (1992)) (internal quotation marks omitted). This discretion is referred to as "prudential" exhaustion, *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019), and such a court-made exhaustion rule must comply with statutory schemes and Congressional intent, *Shearson*, 725 F.3d at 593–94. Notably, the United States Court of Appeals for the Sixth Circuit has not yet decided "whether courts should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention." *See Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (citing *Hernandez v. U.S. Dep't of Homeland Sec.*, No. 1:25-cv-1621, 2025 WL 2444114, at *8 (N.D. Ohio Aug. 25, 2025)). However, as Respondents note (Resp., ECF No. 4, PageID.136), courts within the Sixth Circuit "have applied the three-factor test, set forth in *United States v. California Care Corp.*, 709 F.2d 1241 (9th Cir. 1983), to determine whether prudential exhaustion should be required." *See Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, —— F.Supp.3d ——, ——, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025). Under that authority,

> courts may require prudential exhaustion when:
>
> (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision;
>
> (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and
>
> (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Id. (citing *Shweika v. Dep't of Homeland Sec.*, No. 1:06-cv-11781, 2015 WL 6541689, at *12 (E.D. Mich. Oct. 29, 2015)).

[12] Upon consideration of those factors, this Court concludes that prudential exhaustion should not be required in this case. First, the central question presented by Petitioner's § 2241 petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to Petitioner. That determination relies upon a purely legal question of statutory interpretation and does not require the record that would be developed should the Court require Petitioner to exhaust his administrative remedies. Moreover, this Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 413, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024) (noting that "courts need not and under the [Administrative Procedure Act (APA)] may not defer to an agency interpretation of the law simply because a statute is ambiguous.").

Second, Petitioner's constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006).

*7 And third, administrative review is not likely to allow the agency to correct its own mistakes and to preclude the need for judicial review if Petitioner is successful. It is Petitioner's position that he is detained under § 1226, rather than § 1225, and that the automatic stay violates Petitioner's right to due process. However, the BIA recently proclaimed that *any* individual who has ever entered the United States unlawfully and was later detained is no longer eligible for bond and is subject to mandatory detention under § 1225(b)(2)(A).

See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (BIA 2025). It is simply implausible that the BIA would change its position, regardless of the arguments set forth in this particular case, thus precluding meaningful review.

Accordingly, for the foregoing reasons, this Court concludes that each of the three factors weigh against requiring exhaustion in this case. Therefore, prudential exhaustion is not required.

V. Merits Discussion

A. Petitioner's Detention Is Governed by § 1226.

Petitioner contends that Respondents have violated the INA by concluding that Petitioner is detained pursuant to the mandatory detention provisions set forth in 8 U.S.C. § 1225(b)(2). (Pet., ECF No. 1, PageID.8–9.) According to Petitioner, noncitizens who "are charged as inadmissible for having entered the United States without inspection and who have resided in the United States for more than two years" are detained pursuant to 8 U.S.C. § 1226(a). (*Id.*, PageID.9.) Respondents, however, contend that Petitioner "unambiguously meets every element for detention under § 1225(b)(2)," and that "even if the text of § 1225(b)(2) were ambiguous, its structure and history support the agency's interpretation of the statute." (ECF No. 4, PageID.137.) To address the Parties' arguments, the Court must examine the two primary statutory provisions at play: 8 U.S.C. § 1225 and § 1226.

Section 1225(b)(2)(a) provides that

> 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 a proceeding under section 1229a of this title

8 U.S.C. § 1225(b)(2)(a).

Section 1226(a), on the other hand, "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018). It states:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) [1] and pending such decision, the Attorney General
>
> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on
>
> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
>
> (B) conditional parole ...

8 U.S.C. § 1226(a).

[13] In sum, both provisions govern the detention of noncitizens pending removal proceedings; the critical difference is that § 1225 provides for mandatory detention, while § 1226 allows for the release of the noncitizen on conditional parole or bond. For the following reasons, the Court finds that Petitioner's detention is governed by § 1226.

Respondents contend that Petitioner is detained pursuant to § 1225 because he is an applicant for admission, seeking admission, and who is not clearly and beyond a doubt entitled to be admitted. (Resp., ECF No. 4, PageID.138.) Respondents further argue that any "unadmitted" noncitizen is an " 'applicant[ ] for admission' regardless of their proximity to the border, the length of time they have been present in the United States, or whether they ever had the subjective intent to properly apply for admission." (*Id.*) They explain that the INA defines "admission" and "admitted" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." (*Id.* (quoting 8 U.S.C. § 1101(a)(13))).

*8 Petitioner claims that "§ 1226(a) applies to noncitizens without lawful status who are arrested within the country" and "sets forth 'the default rule' for detaining noncitizens 'already present in the United States.' " (Reply, ECF No. 5, PageID.238–39 (quoting *Jennings*, 583 U.S. at 303, 138 S.Ct. 830)).

[14] [15] [16] [17] [18] To address the parties' arguments, this Court must engage in principles of statutory interpretation. "A statute should be construed so that effect is given to all its provisions." *Corley v. United States*, 556 U.S. 303, 314, 129 S.Ct. 1558, 173 L.Ed.2d 443 (2009); *see also Kentucky v. Biden*, 23 F.4th 585, 603 (6th Cir. 2022) (noting how courts "must give effect to the clear meaning of statutes as written"). When engaging in statutory interpretation, the Court's "inquiry 'begins with the statutory text, and ends there as well if the text is unambiguous.' " *See In re Vill. Apothecary, Inc.*, 45 F.4th 940, 947 (6th Cir. 2022) (quoting *Binno v. Am. Bar Ass'n*, 826 F.3d 338, 346 (6th Cir. 2016)). However, ambiguity is not determined by examining provisions in isolation. "[T]he 'meaning—or ambiguity—of certain words or phrases may only become evident when placed in context.' " *Id.* (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000)). "The words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 101, 132 S.Ct. 1350, 182 L.Ed.2d 341 (2012). This Court must also "use every tool at [its] disposal to determine the best reading of the statute." *Raimondo*, 603 U.S. at 400, 144 S.Ct. 2244. Examining the statute as a whole, in line with the guiding principles of statutory construction, this Court agrees with the numerous other courts in the country that have concluded that Respondents' interpretation of the statute is simply much too broad.

[19] The text of § 1225(b)(2)(A) provides for the detention of an "alien seeking admission" after an "examining immigration officer" determines that the alien "is not clearly and beyond a doubt entitled to be admitted." An "applicant for admission" is defined as "[a]n alien present in the United States who has not been admitted or who arrives in the United States." *See id.* § 1225(a)(1). The INA further defines "admission" and "admitted" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." *See* 8 U.S.C. § 1101(a)(13). At issue is whether "an alien present in the United States who has not been admitted" includes individuals like Petitioner who have been present in the United States for years, but who did not enter lawfully.

[20] Although the terms of § 1225 may seem unambiguous when viewed in isolation, context matters. *Yates v. United States*, 574 U.S. 528, 537, 135 S.Ct. 1074, 191 L.Ed.2d 64 (2015) (emphasizing the importance of context even when a statutory term is unambiguous). Section 1225 is titled, "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." A title, such as this "is especially valuable [where] it reinforces what the text's nouns and verbs independently suggest." *Yates*, 574 U.S. at 552, 135 S.Ct. 1074 (Alito, J., concurring in judgment). Congress' decision to include the word "arriving," as well as the decision to include references to methods of physical arrival, such as "stowaways" and as "crewmen" evidences an intent to address noncitizens coming to the United States—whether on one side of the border or the other—and who are presently "seeking admission" into the United States. *Pizarro Reyes*, 2025 WL 2609425, at *5 (citing to *Dubin v. United States*, 599 U.S. 110, 118, 143 S.Ct. 1557, 216 L.Ed.2d 136 (2023)).

*9 [21] But more importantly, Respondents' interpretation urges this Court to turn a blind eye to the remainder of the statutory scheme. Courts are instructed to "construe statutes, not isolated provisions." *King v. Burwell*, 576 U.S. 473, 486, 135 S.Ct. 2480, 192 L.Ed.2d 483 (2015). Whereas § 1225 governs the treatment of "arriving aliens," § 1226 is much broader, referring to all other aliens not lawfully present but not arriving. To read § 1226 otherwise would ignore recent amendments to § 1226 and render Congress' recent actions entirely superfluous, a result that this Court has long been instructed to avoid. *TRW Inc. v. Andrews*, 534 U.S. 19, 31, 122 S.Ct. 441, 151 L.Ed.2d 339 (2001) ("It is 'a cardinal principle of statutory construction' that a 'statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.' " (quoting *Duncan v. Walker*, 533 U.S. 167, 174, 121 S.Ct. 2120, 150 L.Ed.2d 251 (2001))).

Just this year, Congress enacted the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025), which amended § 1226 to prescribe a subset of noncitizens who are exempt from the discretionary bond analysis. Specifically, the Act added a subsection that explicitly mandates detention for those noncitizens who are inadmissible under §§ 1182(a)(6)(A), 1182(a)(6)(C), and 1182(a)(7), *and* who have been arrested for, charged with, or convicted of certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E). Notably, § 1182(a)(6)(A) refers to "[a]n alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General ...", in other words, someone like Petitioner. If all individuals like Petitioner, "present in the United States without being admitted or paroled," were already subject to mandatory detention under § 1225, then there would have been no need for Congress to amend the INA to provide for mandatory detention of individuals who were "present in the United States without being admitted or paroled" *and* who were arrested, charged with, or committed certain crimes. Quite simply, were the Court to agree with Respondents' interpretation of §§ 1225 and 1226, the Court would be nullifying Congress's intent and rendering § 1226(c)(1)(E) entirely superfluous.

Considering the foregoing, the Court concludes that § 1226(a), and not § 1225(b)(2)(A), governs noncitizens, such as Petitioner, who have resided in the United States and were already present within the United States without being admitted or paroled at the time that they were apprehended. [2] Therefore, the Court will examine the impact of the automatic stay on Petitioner's Fifth Amendment due process rights.

B. The Automatic Stay Under 8 C.F.R. § 1003.19(i)(2) Violates Petitioner's Fifth Amendment Due Process Rights

*10 **[22]** **[23]** The Supreme Court has held that "[o]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682, 121 S.Ct. 2491. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Id.* at 690, 121 S.Ct. 2491. The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94, 145 S.Ct. 1364, 221 L.Ed.2d 765 (2025). This includes noncitizens, like Petitioner. *See id.*; *see also United States v. Verdugo-Urquidez*, 494 U.S. 259, 269, 110 S.Ct. 1056, 108 L.Ed.2d 222 (1990); *Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *4 (6th Cir. Jan. 18, 2023).

[24] To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration). *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos*, —— F.Supp.3d at ——, 2025 WL 2496379, at *9 (citing *Mathews*, 424 U.S. at 335, 96 S.Ct. 893).

1. Private Interest

[25] There is no dispute that Petitioner has a significant private interest in avoiding detention, as one of the "most elemental of liberty interests" is to be free from detention. *See Hamdi*, 542 U.S. at 529, 124 S.Ct. 2633. The Court may also consider Petitioner's conditions of confinement, i.e., "whether a detainee is held in conditions indistinguishable from criminal incarceration." *See Günaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). Respondents do not claim that the conditions of Petitioner's confinement at North Lake differ in any material way from criminal incarceration. Petitioner is now detained at a facility that is halfway across the country from his mother and community; there can be no doubt that he is "experiencing

[many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, ... lack of privacy, and, most fundamentally, the lack of freedom of movement." *See* *Günaydin*, 784 F.Supp.3d at 1187.

It is worth noting that, while Respondents represent that Petitioner's case is presently set for hearing, the invoked automatic stay does not have a certain end date. "If the BIA does not resolve the appeal within the ninety-day period, ICE can seek a discretionary stay for an additional 30 days." *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, —— F.Supp.3d ——, ——, 2025 WL 2607924, at *10 (D. Mass. Sept. 9, 2025) (citing 8 C.F.R. § 1003.6(c)(5)). The matter can also be referred to the Attorney General, who can stay the case *indefinitely* pending disposition. 8 C.F.R. § 1003.6(d) (emphasis added). Therefore, the "private interest" factors strongly weighs in favor of Petitioner.

2. Risk of Error

[26] Given the nature of the automatic stay, the risk of error is high. Under the automatic stay, *only* noncitizens who have already prevailed in a judicial bond hearing are subject to continued detention without any individualized assessment.

***11** Here, the IJ, acting as an impartial decision-maker, reviewed the testimony and evidence presented at the bond hearing that Petitioner is an 18-year-old recent high school graduate who lives at home with his mother, has strong ties to his community, and has no criminal record. (ECF No. 1-8, PageID.93–126.) Based upon the evidence presented, the IJ made an independent decision that Petitioner was eligible for release from custody under bond of $5,000. (ECF No. 1-6, PageID.87.) Under the automatic stay provision, that decision of the IJ is entirely inconsequential, nothing more than an "empty gesture." *See* *Ashley v. Ridge*, 288 F. Supp. 2d 662, 668, 671 (D.N.J. 2003) (holding that the automatic stay regulation creates a "patently unfair situation by 'tak[ing] the stay decision out of the hands of the judges altogether and giv[ing] it to the prosecutor who has by definition failed to persuade a judge in an adversary hearing that detention is justified' " and "renders the Immigration Judge's bail determination an empty gesture"). The automatic stay provision strips the process of any impartiality, allowing Respondents to act both as the prosecution and the judge in making a unilateral and unreviewed decision as to detention. This presents a risk of error weighing in favor of Petitioner.

3. Respondents' Competing Interests and Burdens of Additional or Substitute Procedures

[27] Lastly, the Court recognizes that the Government "does, indeed, have a legitimate interest in ensuring noncitizens' appearance at removal proceedings and preventing harms to the community." *See* *Sampiao*, —— F.Supp.3d at ——, 2025 WL 2607924, at *12. However, on the record before the Court, Respondents have made only highly speculative arguments regarding Petitioner's risk of flight. (*See* ECF NO. 1-6, PageID.84 (arguing that Petitioner's decision not to voluntarily provide evidence that he filed taxes in United States with his request for bond could be an indicator of possible criminal activity)). Notably, continuing to enforce Petitioner's detention would likely impose more costs upon the Government, as it would be required to continue funding and overseeing Petitioner's detention. *See* *Sampiao*, —— F.Supp.3d at ——, 2025 WL 2607924, at *12.

Moreover, the INA has in place a procedure that would allow Respondents to seek a stay before an impartial decision-maker based upon an individualized assessment. Under 8 U.S.C. § 1003.19(i)(1),

> [t]he Board of Immigration Appeals (Board) has the authority to stay the order of an immigration judge redetermining the conditions of custody of an alien when the Department of Homeland Security appeals the custody decision or on its own motion. DHS is entitled to seek a discretionary stay (whether or not on an emergency basis) from the Board in connection with such an appeal at any time.

8 C.F.R. § 1003.19(i)(1). Respondents do not argue that they were unable to request a stay. Therefore, the Court concludes that Respondents' interests are adequately protected by alternative mechanisms already in place.

In sum, the Court's balancing of the *Matthews v. Eldridge* factors weighs in Petitioner's favor. Therefore, the Court finds that Petitioner's current detention violates Petitioner's Fifth Amendment due process rights. As the Eastern District of Michigan recently stated, "[t]he recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and implemented by Congress, we don't get to arbitrarily choose which laws we feel like following when they best suit our interests." *Lopez-Campos*, —— F.Supp.3d at ——, 2025 WL 2496379, at *10.

Because the IJ is in the better position to evaluate whether Petitioner poses a flight risk and a danger to the community, the Court defers to the IJ's sound discretion and will order Petitioner's immediate release on the terms set by the IJ, including the bond of $5,000.

VI. Request for Dismissal of Respondents Lyons and Noem

[28] **[29]** **[30]** Respondents request that the Court dismiss as Respondents Acting Director of ICE Todd Lyons and United States Secretary of Homeland Security Kristi Noem because they are not custodians within the meaning of 28 U.S.C. § 2243. (Resp., ECF No. 4, PageID.159.) "The writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody." *Braden v. 30th Jud. Circuit Ct. of Ky.*, 410 U.S. 484, 494–95, 93 S.Ct. 1123, 35 L.Ed.2d 443 (1973). Thus,

> ***12** [r]ead literally, the language of [§] 2241(a) requires nothing more than that the court issuing the writ have jurisdiction over the custodian. So long as the custodian can be reached by service of process, the court can issue a writ 'within its jurisdiction' requiring that the prisoner be brought before the court for a hearing on his claim, or requiring that he be released outright from custody, even if the prisoner himself is confined outside the court's territorial jurisdiction.

Id. at 495, 93 S.Ct. 1123.

The Sixth Circuit has "concluded that a detained alien generally must designate his immediate custodian—the INS District Director for the district where he is being detained—as the respondent to his habeas corpus petition." *Roman v. Ashcroft*, 340 F.3d 314, 322 (6th Cir. 2003). Here, Petitioner has named Field Office Director of the Detroit Field Office of ICE Robert Lynch as a Respondent and Petitioner's immediate custodian. (Pet., ECF No. 1, PageID.12.) Respondent contends that Lynch is the only proper Respondent in this case. (Resp., ECF No. 4, PageID.159.)

In *Roman*, the Sixth Circuit stated that while it "conclude[d] that the immediate custodian rule generally applies to alien habeas corpus petitioners, [there is] the possibility of exceptions to this rule." *Roman*, 340 F.3d at 322. The *Roman* court went on to note:

> Some courts are also willing to make an exception to the immediate custodian rule in other extraordinary circumstances. For example, courts have noted the INS's ability, as a practical matter, to deny aliens any meaningful opportunity to seek habeas corpus relief simply by transferring aliens to another district any time they filed a habeas corpus petition. *Chavez–Rivas,* 194 F. Supp. 2d at 374. Aliens remaining in detention for extended periods are often transferred several times during their detention. *See Lee v. Ashcroft,* 216 F. Supp. 2d 51, 55 (E.D.N.Y.2002) ("[T]he location of custody, and the identity of the day-to-day custodian, frequently change when detainees are transferred among INS facilities, all of which are under the control of the Attorney General."); Rosenbloom, *supra,* at 549. In light of these transfers, one court reasoned that an alien may properly name a respondent other than his immediate custodian because a petition naming a higher level official, such as the Attorney General, could be adjudicated without interruption in the event of a transfer. *Arias–Agramonte* [*v. C.I.R.*], 2000 WL 1617999, at *8 [(S.D.N.Y. Oct. 30, 2000)] (explaining that a petition naming only one's immediate custodian would be dismissed when the alien was transferred to another local district).

Id. at 325–26. Thus, the Sixth Circuit concluded, "an exception might be appropriate if the INS were to exercise

its transfer power in a clear effort to evade an alien's habeas petitions." *Id.* at 326.

In light of the foregoing and to ensure that Respondents maintain authority to enforce this Court's grant of habeas relief in the event of a transfer, the Court will not dismiss Acting Director Lyons and Secretary Noem as Respondents to these proceedings.

Conclusion

For the reasons discussed above, the Court will enter an order and judgment granting the petition pursuant to 28 U.S.C. § 2241 as it pertains to Petitioner's request for a writ of habeas corpus ordering Respondents to release Petitioner on bond. Petitioner shall be released from custody, immediately, subject to the conditions previously imposed by the Immigration Judge, including the $5,000 bond. Within two (2) business days of the date of this order, Respondents shall file a status report with the Court to certify compliance with the Court's opinion and judgment.

***13** The Court will deny the petition as to Petitioner's remaining requests for relief for lack of jurisdiction under § 1252(g).

The Court will deny Respondents' request to dismiss Respondents Lyons and Noem.

All Citations

--- F.Supp.3d ----, 2025 WL 3012033

Footnotes

1 Subsection (c) refers to the "[d]etention of criminal aliens," which does not apply here. *See* 8 U.S.C. § 1226(c).

2 This Court is far from the first federal district court to reach this conclusion. *See, e.g.*, *Lopez-Campos*, —— F.Supp.3d at ——, 2025 WL 2496379, at *8; *see also* *Rodriguez v. Bostock*, 779 F. Supp. 3d at 1256–61; *Singh v. Lewis*, No. 4:25-cv-96-RGJ, 2025 WL 2699219, at *3–5 (W.D. Ky. Sept. 22, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, —— F.Supp.3d ——, —— – ——, 2025 WL 2691828, at *7–12 (W.D. Tex. Sept. 22, 2025); *Campos Leon v. Forestal*, 1:25-cv-1774-SEB-MJD, 2025 WL 2694763, at *2–5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408 (LMB/IDD), —— F.Supp.3d ——, —— – ——, 2025 WL 2682255, at *5–9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136, at *2–4 (W.D. La. Aug. 27, 2025); *Romero v. Hyde*, No. 1:25-cv-11631-BEM, —— F.Supp.3d ——, —— – ——, 2025 WL 2403827, at *8–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, —— F.Supp.3d ——, —— – ——, 2025 WL 2374411, at *9–16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988, at *6–9 (D. Mass. Aug. 14, 2025); *Lopez Benitez v. Francis*, No. 1:25-cv-05937-DEH, —— F.Supp.3d ——, —— – ——, 2025 WL 2371588, at *3–9 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099, at *6–11 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *6–8 (D. Mass. July 7, 2025).

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EXHIBIT F

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Jose Onilson PUERTO HERNANDEZ, A[redacted]

Respondent

FILED
Dec 12, 2025

ON BEHALF OF RESPONDENT: Alan J. Pollack, Esquire

ON BEHALF OF DHS: Gregory K. Mayer, Assistant Chief Counsel

IN BOND PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Elizabeth, NJ

Before: Volkert, Appellate Immigration Judge

VOLKERT, Appellate Immigration Judge

The Department of Homeland Security ("DHS") appeals from the Immigration Judge's August 26, 2025, decision granting the respondent's request for a change in custody status and ordering him released on bond. The Immigration Judge issued a bond memorandum on September 17, 2025, setting forth the reasons for the bond decision. The respondent, a native and citizen of Honduras, has not responded to the appeal. We will sustain the appeal.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge found that he had jurisdiction over the respondent's request for custody redetermination and concluded that the respondent does not present a danger to the community or an unmitigable flight risk (IJ Bond Memo at 1-3). Accordingly, the Immigration Judge granted the respondent's request for release from custody (IJ Bond Memo at 4).

DHS argues on appeal, as it did below, that the respondent is an "applicant for admission" and is subject to mandatory detention under section 235(b)(2)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b)(2)(A) (DHS Notice of Appeal). An applicant for admission is defined in part as "an alien present in the United States who has not been admitted." [1]

[1] "An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be

[redacted]

INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). During the pendency of the instant appeal, we held that under a plain language reading of the INA, Immigration Judges lack authority to hear bond requests or grant bond to aliens who are present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). We determined that the statutory text of the INA is clear and explicit in requiring mandatory detention of all aliens who are applicants for admission, without regard to how many years they have been residing in the United States without lawful status. *See* INA § 235(b)(1), (2), 8 U.S.C. § 1225(b)(1), (2); *see also Matter of Yajure Hurtado*, 29 I&N Dec. at 226.

The Immigration Judge found that the respondent entered the United States without being admitted or paroled after inspection by an immigration officer (IJ Bond Memo at 1). The respondent has not challenged that finding. In light of our intervening decision in *Matter of Yajure Hurtado*, we conclude that the respondent is an applicant for admission and is subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A). Accordingly, neither the Immigration Judge nor this Board has the authority to grant his request for release on bond. We will therefore sustain DHS' appeal.

Accordingly, the following order will be entered.

ORDER: The appeal is sustained and the Immigration Judge's August 26, 2025, order granting the respondent's release on a payment of $5,000 bond is vacated.

deemed for purposes of this chapter an applicant for admission." INA § 235(a)(1), 8 U.S.C. § 1225(a)(1).

EXHIBIT G

Search Results: 1

[redacted]

Country of Birth : Ecuador

A-Number: [redacted]

Status : In ICE Custody

Current Detention Facility: OTAY MESA DETENTION CENTER

** Click on the Detention Facility name to obtain facility contact information*

BACK TO SEARCH >