

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MIGUEL GUTIERREZ RODRIGUEZ,	§	
	§	
Petitioner,	§	
	§	
v.	§	CIVIL NO. 4:25-cv-6323
	§	
PAMELA BONDI, in her official capacity	§	
as the U.S. Attorney General, et al.,	§	
	§	
Respondents.	§	

**REPLY TO RESPONDENTS’ RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS AND MOTION TO DISMISS AND, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

**I. Introduction**

Respondents move to dismiss the Petition or, in the alternative, for summary judgment, arguing that habeas review is barred by failure to exhaust administrative remedies, that Petitioner is subject to mandatory detention, and that *Matter of Yajure Hurtado* forecloses bond jurisdiction. Each argument has been addressed and rejected by this Court in materially indistinguishable cases, and Respondents identify no basis for a different result here.

As set forth below, exhaustion does not bar review because it is a prudential doctrine that is excused where, as here, the agency maintains that the requested relief is unavailable as a matter of law. The record further establishes that Respondents detained and released Petitioner pursuant to INA § 236 (codified at 8 U.S.C. § 1226) and therefore may not invoke mandatory detention authority inconsistent with that statutory framework.

Independently, Respondents’ position would permit continued detention without any neutral custody determination, notwithstanding Respondents’ prior conclusion that Petitioner

was eligible for release. For these reasons, Respondents' Motions to Dismiss and for Summary Judgment should be denied, and the Petition for a Writ of Habeas Corpus should be granted.

## II. Exhaustion Does Not Bar Habeas Review

Exhaustion of administrative remedies is not a statutory prerequisite to habeas review under 28 U.S.C. § 2241. It is a prudential doctrine that may be excused where administrative remedies are unavailable, futile, or incapable of providing meaningful relief. This Court has repeatedly exercised habeas jurisdiction in immigration detention cases challenging detention authority under §§ 1225 and 1226 notwithstanding the government's exhaustion arguments. *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Dionicio Arellano v. Bondi*, No. H-25-5454, slip op. at 4 (S.D. Tex. Dec. 9, 2025); *Garcia-Miranda v. Noem*, No. H-25-5558, slip op. at 1–2 (S.D. Tex. Dec. 16, 2025). Respondents have failed to provide any persuasive basis for this Court to depart from its prior rulings.

Respondents argue that Petitioner was required to seek a bond hearing before an immigration judge and pursue administrative appeal. At the same time, Respondents maintain that immigration judges lack authority to conduct bond hearings for individuals in Petitioner's position under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Where the agency has taken the position that the requested relief is unavailable as a matter of law, exhaustion is excused as futile. *Fuller v. Rich*, 11 F.3d 61, 62 (5<sup>th</sup> Cir. 1994) (per curiam); *Buenrostro-Mendez*, 2025 WL 2886346, at \*4; *Lopez-Benitez v. Francis*, 795 F. Supp. 3d 475, 496–98 (S.D.N.Y. 2025).

The agency's institutional position confirms that pursuing administrative relief would serve no practical purpose. Public reporting reflects that EOIR leadership has instructed

immigration judges to adhere to the agency's interpretation denying bond authority in these circumstances absent controlling relief. *See* Nate Raymond, *Top U.S. immigration judge says bond hearings should be denied despite court rulings*, Reuters (Jan. 16, 2026), <https://www.reuters.com/legal/government/top-us-immigration-judge-says-bond-hearings-should-be-denied-despite-court-2026-01-16/>. In these circumstances, requiring Petitioner to pursue administrative remedies would merely prolong detention while the purely legal issue remains unchanged.

Accordingly, exhaustion does not bar review.

### **III. Petitioner Is Detained Under 8 U.S.C. § 1226 and Is Not Subject to Mandatory Detention**

The record establishes that Respondents detained Petitioner pursuant to INA § 236, issued custody determinations under that statute, and released Petitioner on conditions pursuant to § 236 (INA § 236 is codified at 8 U.S.C. § 1226). Respondents do not dispute these facts. This case therefore concerns the consequences of Respondents' own statutory election, not a hypothetical application of the detention statutes.

Nothing in the Immigration and Nationality Act authorizes DHS to rescind a completed custody determination under § 1226 and retroactively subject a noncitizen to mandatory detention under § 1225. Once Respondents elected to proceed under § 1226 and exercised the discretion that statute confers, including discretionary custody determinations, detention remains governed by § 1226 unless and until removal proceedings conclude. Respondents identify no statutory provision permitting DHS to alternate between detention regimes to eliminate bond jurisdiction after it has been exercised.

Respondents' mandatory-detention theory also conflicts with their own actions. If § 1225(b)(2) applied to Petitioner, Respondents would have lacked authority to release him under

§ 1226 in the first instance. The INA does not permit DHS to characterize detention as discretionary when release is granted and mandatory when re-detention occurs.

Because Petitioner is detained under § 1226, he is entitled to an individualized bond determination pursuant to 8 U.S.C. § 1226(a).

#### **IV. *Matter of Yajure Hurtado* Does Not Bind This Court**

*Matter of Yajure Hurtado* is not binding on this Court. While it may bind immigration judges, it does not bind a federal court adjudicating a habeas petition. Under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), courts owe no deference to the BIA’s interpretation of the detention statutes. Courts, including this Court, have found *Matter of Yajure Hurtado* unpersuasive in materially indistinguishable cases. See *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, at \*3 n.3 (S.D. Tex. Oct. 7, 2025); see also *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at \*4–6 (E.D. Mich. Sept. 9, 2025) (declining to apply *Yajure Hurtado* and holding that detention was governed by § 1226(a)). Respondents’ disagreement with this prior Court’s analysis provides no basis for reconsideration.

#### **V. Due Process Provides an Independent Basis for Relief**

Freedom from physical restraint lies at the core of the Fifth Amendment’s Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Civil immigration detention is constitutionally permissible only so long as it bears a reasonable relation to its purpose and includes adequate procedural safeguards. Where detention authority is discretionary, due process requires an individualized determination of whether continued detention is justified. *Demore v. Kim*, 538 U.S. 510, 531–33 (2003) (Kennedy, J., concurring).

Here, Respondents’ position would permit prolonged detention without any neutral custody determination, notwithstanding Respondents’ prior decision to detain and release

Petitioner under § 1226. Under that theory, Petitioner may be re-detained and held without a bond hearing based solely on Respondents' unilateral recharacterization of detention authority, with no opportunity to contest flight risk or danger before an impartial adjudicator. That process is insufficient under the Fifth Amendment.

Due process is not satisfied where detention continues without any meaningful opportunity for individualized review. The Constitution requires more than the government's assertion that detention is authorized; it requires a procedure by which the necessity of detention may be tested. *See Zadvydas*, 533 U.S. at 690-91.

Providing Petitioner with a bond hearing before an immigration judge satisfies due process by ensuring that continued detention rests on an individualized assessment rather than categorical assumptions or unilateral assertions of detention authority. Because Respondents' position forecloses any such review, due process independently requires relief

## **VI. Conclusion**

For the foregoing reasons, Respondents' Motions to Dismiss and for Summary Judgment should be denied. The Court should grant the Petition for a Writ of Habeas Corpus and order such relief as is necessary to remedy Petitioner's unlawful detention.

DATED this 18<sup>th</sup> of January 2026.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Instrument was sent via ECF on January 18, 2026, to all counsel of record.

/s/Themistoklis Aliferis  
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