

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TARUN KUMAR,

Petitioner,

v.

FREDRICK W. STEVENS, et al.,

Respondents.

Case No. 3:26-cv-132

Judge Jeffrey J. Helmick
Magistrate Judge Darrell A. Clay

**REPLY IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS**

INTRODUCTION¹

DHS released Tarun Kumar on bond in June 2020. Then it voluntarily dismissed his immigration-court removal proceedings in December 2023. He has lived and worked in this country for years, but now Respondents have arbitrarily arrested him and claim he is mandatorily detained under 8 U.S.C. § 1225(b), which they say requires indefinite detention throughout the pendency of removal proceedings.² But, as argued below, numerous courts around the country have found that once DHS releases a noncitizen on bond pursuant to the discretionary detention

¹ Respondents fault Petitioner for “omit[ting] the fact that he was first placed in removal proceedings and detained in 2019 pursuant to expedited removal.” Dkt. 8 at 4. Although Petitioner apologizes for the omission, counsel had no knowledge that Mr. Kumar had previously been in expedited removal proceedings, as there was no indication of it in any of the documents supplied by his immigration attorney or his sponsor. Furthermore, the Notice to Appear (which does not designate Mr. Kumar as an “arriving alien”), and the fact that he was previously released from custody for five years before his re-detention – indeed, the fact that he is still in the country seven years after he first arrived – would not have led reasonable counsel to suspect there was any chance of an expedited removal document lurking somewhere in his A-file. However, if the Court were inclined to deny the petition on this basis, Petitioner would respectfully ask leave to amend the petition first. *See* Fed. R. Civ. P. 15(a)(2) (“The court should freely give leave when justice so requires.”); Fed. R. Civ. P. 81(a)(4) (applying federal rules to habeas proceedings).

² Specifically, until the BIA adjudicates an appeal that has been pending since January 19, 2024, and which still does not even having a briefing schedule. *See* Dkt. 8-5; *see also* <https://acis.eoir.justice.gov/en/caseInformation> (A203-677-533).

statute, § 1226(a), neither DHS nor a court can turn back the clock and find that he is validly re-detained under § 1225(b). Furthermore, courts have found that due process prevents arbitrary revocation of a noncitizen's bond without a pre-deprivation hearing and a showing of changed circumstances.

Because DHS's own documentation establishes that for over five years it has treated Mr. Kumar as being subject to § 1226(a), and because its arguments on jurisdiction and administrative exhaustion have been rejected by almost every court to consider them, the Court should grant the petition and order Mr. Kumar's release subject to his previous bond order.

ARGUMENT

I. Numerous courts have held that when a petitioner is released on bond pursuant to § 1226(a), as Mr. Kumar was in 2020, he cannot later be subject to mandatory detention under § 1225(b).

A. Mr. Kumar is not detained under § 1225(b)(1).

Respondents argue that Mr. Kumar is detained pursuant to § 1225(b)(1)(B)(ii) and that he “remains subject to mandatory detention under this provision.” Dkt. 8 at 15. But crucial to determination of this case is the fact that – as Respondents' own documentation shows – Mr. Kumar was previously released on bond in 2020. Dkt. 8-3 (“Released from ICE custody on the following condition(s): ... Bond in the amount of \$15,000.00.”). If a noncitizen is *mandatorily* detained, then by definition, he or she cannot be released on bond; only those subject to discretionary detention under § 1226(a) are eligible for bond. *See, e.g., Sidqui v. Almodovar*, 2026 WL 251929, at *10 (S.D.N.Y. Jan. 30, 2026) (“An alien who is transferred from expedited removal proceedings to full removal proceedings after establishing a credible fear of persecution is ineligible for release on bond. Such an alien must be detained until his removal proceedings conclude ... Thus, if DHS believed that Petitioner was subject to § 1225(b)(1)(B)(ii), DHS would

have continued detaining him ... Instead, Petitioner was released from custody on conditional parole/Alternative to Detention Program.”) (cleaned up); *Luna Sanchez v. Bondi*, 2025 WL 3191922, at *4 (E.D. Va. Nov. 14, 2025) (“Petitioner’s prior release on bond carries legal significance ... DHS’s decision to release an individual on bond ... constitutes strong evidence that DHS intended to detain the individual under § 1226(a) and not under § 1225(b).”).

Courts in cases legally indistinguishable from this one have found that once a petitioner has been released pursuant to § 1226(a), he cannot later be arbitrarily re-detained under § 1225(b). A leading case on this issue is *De Andrade v. Moniz*, 802 F. Supp. 3d 325 (D. Mass. 2025). In that case, a noncitizen was initially placed in removal proceedings, but after he expressed a credible fear of persecution, he was released on his own recognizance under § 1226(a). *Id.* at 328. Four years later, the government re-detained him, claiming that his detention was mandatory under § 1225(b)(1). *Id.* at 332. “In substance, the government asks the Court to turn a blind eye to the circumstances of petitioner’s release and the events of the past four years ... But petitioner has been residing in Massachusetts since 2021 ... He was already conditionally paroled³ into the United States. And he is still here ... The government [] cannot now turn back the clock, and neither can the Court.” *Id.* at 332-33. “In short, this Court joins the many other courts in this district and around the country that have found that non-citizens who have been conditionally paroled into the United States are entitled to discretionary detention and a bond hearing under § 1226(a), not mandatory detention under § 1225(b).” *Id.* at 333.

³ Although *De Andrade* dealt with release on recognizance (“conditional parole”), not bond, both are governed by § 1226(a), so the legal analysis is the same. *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (noting that “the Attorney General may release an alien detained under § 1226(a) on bond or conditional parole”) (cleaned up).

Another recent case, *Tamarit-Ferrer v. Rivas*, 2026 WL 295687 (D. Ariz. Feb. 4, 2026), is directly on point. In that case, the petitioner was initially placed in expedited removal proceedings but passed a credible fear interview and was moved to full removal proceedings. *Id.* at *1. Very like this case, an immigration judge released the petitioner on bond under § 1226(a), but five years later, ICE re-arrested the petitioner. *Id.* The court noted that “even assuming the IJ *shouldn’t* have released the Petitioner on bond in 2020, the inescapable fact remains that the IJ *did* release Petitioner on bond.” *Id.* at *2. “Accordingly, when Petitioner was redetained in 2025, he remained subject to [the § 1226(a) discretionary] detention framework.” *Id.* The court granted the habeas petition and ordered a new bond hearing. *Id.* at *4.

In another very similar recent case, *Portillo-Argueta v. Simon*, 2026 WL 184194 (E.D. Va. Jan. 23, 2026), the petitioner was placed in expedited removal proceedings but was transferred to full removal proceedings after establishing a credible fear. *Id.* at *1. The petitioner was subsequently released on bond during the pendency of his immigration case. *Id.* The immigration proceedings were administratively closed in 2023, but in 2025, ICE arrested the petitioner and placed him back in removal proceedings. *Id.* at *2. In that case, as here, the government “contend[ed] that Petitioner continues to be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), rather than discretionary detention under § 1226(a) because Petitioner was initially processed for expedited removal pursuant to 8 U.S.C. § 1225(b)(1)(A) when border patrol officers apprehended him in 2023, and he now has an asylum application pending.” *Id.* at *3. The court rejected the “Respondents’ expansive interpretation of § 1225(b)(1), under which Petitioner was required to be mandatorily detained after demonstrating credible fear ... and having been released on bond,” noting that it “is difficult to reconcile with the plain language of 8 U.S.C. § 1225(b)(1)(B)(ii)’s mandatory detention provision. As another Court has recognized,

‘§ 1225(b)(1) only mandates detention of noncitizens arriving in the United States during the pendency of expedited removal proceedings and the credible fear interview and review process.’” *Id.* at *4 (citing *Jimenez v. FCI Berlin, Warden*, 799 F. Supp. 3d 59, 68-69 (D.N.H. 2025)). *See also Lawal v. Rhoney*, 2026 WL 279103 (W.D.N.Y. Feb. 3, 2026) (petitioner detained under § 1225(b)(1)(B)(ii), released from custody, then rearrested, was not subject to mandatory detention).

In short, once the government granted Mr. Kumar bond under § 1226(a), the genie was out of the bottle, and there is no way to get it back in. As the cases cited above hold, once the government elects to release a noncitizen on bond under § 1226(a), that person’s detention must also continue to be governed by that statute.

B. Mr. Kumar is not detained under § 1225(b)(2).

Next, Respondents argue that even if Mr. Kumar is not detained under § 1225(b)(1), he can be mandatorily detained under § 1225(b)(2). But courts, including in this district, have overwhelmingly rejected the argument that those detained in the interior of the country living here for years are subject to mandatory detention without bond. *See, e.g., Millan v. Voorhies*, 4:25-cv-2779, 2026 WL 248376 (N.D. Ohio Jan. 30, 2026) (report and recommendation) (Sheperd, J.); *Echavarria Morales v. Noem*, 3:25-cv-2691, 2026 WL 100583 (N.D. Ohio Jan. 14, 2026) (Pearson, J.); *Kaur v. Adducci*, 4:25-cv-2679, Dkt. 18 (N.D. Ohio Jan. 14, 2026) (report and recommendation) (Grimes, J.); *Macias v. Raycraft*, 4:25-cv-2642, 2025 WL 3525262 (N.D. Ohio Dec. 9, 2025) (Polster, J.); *Lopez v. Raycraft*, 4:25-cv-2449, 2025 WL 3280344 (N.D. Ohio Nov. 25, 2025) (Pearson, J.); *Chavez v. Dir. of Detroit Field Ofc.*, 4:25-cv-2061, 2025 WL 3187080 (N.D. Ohio Nov. 14, 2025) (Lioi, C.J.); *E.V. v. Raycraft*, 4:25-cv-2069, 2025 WL 3122837 (N.D. Ohio Nov. 7, 2025) (Pearson, J.); *see also* Pet. (Dkt. 1) at 10-19.

Other courts around the country have agreed. The court in *Munoz Caraguay v. Larocco*, -- F. Supp. 3d --, 2026 WL 294842, at *2 (E.D.N.Y. Feb. 4, 2026) articulates the legal position clearly: “Detention under Section 1225(b)(2) only applies to noncitizens who, among other things, are ‘seeking admission’ to the United States. Here, Mr. Caraguay is not ‘seeking admission’ because he clearly is not presenting himself at the border and was not recently apprehended just after entering this country. Rather, at the time that ICE detained him, Mr. Munoz Caraguay had been living in the interior of the United States ... since he was paroled into the country ... on or around December 22, 2022, and has since applied for asylum and withholding of removal.” As noted in the Petition, judges have ruled against the Government’s § 1225(b)(2) mandatory detention arguments in more than 1,600 cases. Dkt. 1 at ¶ 46; *see also* Dkt. 1 at ¶ 2 (collecting cases). Here, where Mr. Kumar was released into the country on bond, lived and worked here for several years, and then later rearrested, he is not subject to detention under § 1225(b)(2).

Finally, Respondents argue that Mr. Kumar is “seeking admission” because he “applied for ‘asylum, withholding of removal and protection against the convention against torture.’” Dkt. 8 at 19. Courts have rejected this argument. “[T]reating a noncitizen with a pending application for asylum as an individual ‘seeking admission’ under § 1225 – no matter how long he has been present in the United States – would be incongruent with the ordinary meaning of ‘seeking admission,’ which is ‘entering or attempting to enter the country.’” *Gabriel J. v. Bondi*, 2026 WL 295192, at *2-3 (D. Minn. Feb. 4, 2026) (collecting cases); *see also Lopez Cortez v. Swearingen*, 2026 WL 288970, at *4 (S.D. Ind. Feb. 3, 2026) (“Mr. Lopez Cortez’s previous application for asylum does not bring him under the purview of ‘an alien seeking admission’ in § 1225(b)(2)(A) ... The plain meaning of ‘seeking admission’ did not apply to Mr. Lopez Cortez when immigration authorities arrested him in September of 2025 ... While Mr. Lopez Cortez previously applied for asylum at

some point, ‘seeking admission’ is written in present-tense active language ... Mr. Lopez Cortez is plainly not ‘seeking admission.’ He was inspected near the U.S.-Mexico border in 2023, arrested, released, and then re-arrested in Chicago two years later. If anything, Mr. Lopez-Cortez’s pending application demonstrates that he is ‘seeking to remain in the United States,’ not seeking admission.”) (internal citations omitted).

In short, once Mr. Kumar was released on bond and allowed to live in the country for years, then subsequently rearrested, he was not “seeking admission” at the border or a port of entry and thus is not subject to mandatory detention under § 1225(b)(2). *See* Dkt. 1 at 10-18; *see also Kaur*, 4:25-cv-2679, Dkt. 18, at 19-20.

II. Due process requires a pre-deprivation hearing and a showing of changed circumstances before the arbitrary revocation of a noncitizen’s bond.

Courts have rejected the argument that “the government can unilaterally re-detain an individual released on bond years later with no individualized hearing or demonstrated change in circumstances.” *Tamarit-Ferrer*, 2026 WL 295687, at *2 (citing *Ahmed v. Rhoney*, 2026 WL 262553, at *2 (W.D.N.Y. Feb. 2, 2026)); *Tercero v. LaRose*, 2026 WL 206312, at *2-3 (S.D. Cal. Jan. 27, 2026) (petitioner released on bond and re-arrested was entitled to pre-deprivation hearing) (collecting cases); *Azalyar v. Raycraft*, -- F. Supp. 3d --, 2026 WL 30741, at *5 (S.D. Ohio Jan. 2, 2026) (where noncitizen was previously released, Government was required to hold a hearing and show “materially changed circumstances” before re-detaining him); *Cuya-Priale v. Castro*, 2025 WL 3564145, at *2 (D.N.M. Dec. 12, 2025) (“courts require ‘a material change in circumstances as to whether the noncitizen poses a danger to the community or an unreasonable risk of flight’ before [] revocation”) (collecting cases); *Orellana v. Noem*, -- F. Supp. 3d --, 2025 WL 3006763, at *6 (W.D. Ky. Oct. 27, 2025) (where noncitizen was previously released on bond, hearing was required prior to re-detention).

Here, Mr. Kumar was previously determined not to be a danger or flight risk and was released on bond. With that release came a protected liberty interest that Respondents cannot revoke without a pre-deprivation hearing. *J.C.L.A. v. Wofford*, 2025 WL 2959250, at *4 (E.D. Cal. Oct. 17, 2025) (*Mathews v. Eldridge* balancing test required pre-deprivation hearing); *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (ordering immediate release of petitioner who was re-detained without a hearing after having previously been released on his own recognizance); *Valdez v. Joyce*, 803 F. Supp. 3d 213, 218-19 (S.D.N.Y. 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1034-36 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376, at *7-9 (E.D. Cal. Aug. 8, 2025) (similar); *Rodriguez v. Kaiser*, 2025 WL 2855193, at *6 (E.D. Cal. Oct. 8, 2025) (similar); *Faizyan v. Casey*, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025) (similar).

These cases, and many others like them, require Mr. Kumar's immediate release subject to the terms existing before his arbitrary re-detention.

III. Respondents' jurisdictional arguments lack merit.

Respondents argue that the Court lacks jurisdiction under 8 U.S.C. §§ 1252(e), 1252(g), and 1252(b)(9). Courts have uniformly rejected such arguments.

A. Section 1252(e) does not bar review of Petitioner's claims, since he is not in expedited removal proceedings.

Respondents argue that 8 U.S.C. § 1252(e) bars Mr. Kumar's habeas action. Dkt. 8 at 4-8. By the plain terms of the statutory text, that section has no application to this case, which is clear from its heading: "Judicial review of orders under section 1225(b)(1)." Here, there is no order under § 1225(b)(1), as Respondents' documentation makes clear. In the "Notice and Order of Expedited Removal" (Dkt. 8-2), the bottom section, "Order of Removal Under Section 235(b)(1) of the Act," is blank. Once he established a credible fear, Mr. Kumar was transferred to standard

removal proceedings under 8 U.S.C. § 1229a and taken out of expedited removal proceedings. Therefore, he does not seek “[j]udicial review” of any “order[] under section 1225(b)(1).” Although § 1252(e)(2) does contain limitations on a habeas court’s review, it nonetheless provides that the court can review “whether the petitioner was ordered removed under [§ 1225(b)(1)],” which in this case, Mr. Kumar clearly was not (indeed, he has not been ordered removed at all). § 1252(e)(2)(B). *See, e.g., Guncay Castro v. Noem*, 2026 WL 280470, at *8 (D.N.M. Feb. 3, 2026) (section 1252(e)(2) did not bar review of habeas claim where petitioner was placed in standard removal proceedings via a Notice to Appear). It is beyond question that Mr. Kumar is in standard removal proceedings. Dkt. 8-4 (Notice to Appear). A noncitizen cannot be in standard and expedited removal proceedings at the same time. *Vazquez Paredes v. Warden*, 2026 WL 222317, at *5 (D.N.M. Jan. 28, 2026) (citing *Patel v. Tindall*, 2025 WL 2823607, at *5 (W.D. Ky. Oct. 3, 2025)). And a person who has been paroled into the country, including on “conditional parole,” like Mr. Kumar’s bond here, cannot be subject to expedited removal. *See, e.g., N.A. v. LaRose*, 2025 WL 2841989, at *6 (S.D. Cal. Oct. 7, 2025) (custody under § 1225(b)(1)(B)(ii) was unlawful where petitioner had previously been released on her own recognizance).

In short, Mr. Kumar is not in expedited removal proceedings, nor has he been since 2019, and he is not seeking review of any order of expedited removal; therefore § 1252(e) does not apply.

B. Courts, including in this district, have consistently held that 8 U.S.C. § 1252(g) does not bar habeas claims like the ones raised here.

Next, Respondents argue that 8 U.S.C. § 1252(g) strips this Court of jurisdiction because it bars jurisdiction over “any cause or claim by or on behalf of an alien arising from the decision or action by the [Secretary of Homeland Security] to commence proceedings, adjudicate cases, or execute removal orders against any alien.” Dkt. 8 at 8 (citing 8 U.S.C. § 1252(g)).

Other courts in this district have rejected this argument. “Respondents misunderstand § 1252(g). It does not bar judicial review over Petitioner’s constitutional due process claims or allegations that Respondents violated the INA and its implementing regulations. Numerous courts agree.” *E.V. v. Raycraft*, 4:25-cv-2069, 2025 WL 3122837, at *5 (N.D. Ohio Nov. 7, 2025) (collecting cases). As the Court noted in *E.V.*, Petitioner is not “challenging a removal order, or the Department of Homeland Security’s [] discretionary authority to commence or adjudicate removal proceedings against [him] ... Section 1252(g) also does not bar the Court’s jurisdiction to consider [Petitioner’s] claims concerning [his] continued detention without a bond hearing.” *Id.* As the *E.V.* court pointed out, the Sixth Circuit has held that a “district court’s jurisdiction over the detention-based claims is independent of its jurisdiction over the removal-based claims.” *Id.* (citing *Hamama v. Adducci*, 912 F.3d 869, 877 (6th Cir. 2018)). Notably, even Judge Barker, who has denied noncitizens’ habeas petitions on other grounds, has agreed that § 1252(g) does not deprive the court of jurisdiction. *Zhen v. Doe*, 2025 WL 2258586, at *3-4 (N.D. Ohio Aug. 7, 2025) (“Accordingly, if a petitioner ‘raise[s] a challenge that [does] not require the district court to address the merits of her order of removal,’ Sixth Circuit precedent indicates that jurisdiction is not precluded by § 1252(g)”; *see also Kaur*, 4:25-cv-2679, Dkt. 18 at 6-9. Because Mr. Kumar’s habeas petition does not “require the Court to address the merits of [his] removal proceedings, the Court has jurisdiction to consider [his] habeas petition.” *E.V.*, 2025 WL 3122837, at *6.

C. 8 U.S.C. § 1252(b)(9) does not bar review of Mr. Kumar’s claims.

Next, Respondents rely on a recent Third Circuit case to argue that Mr. Kumar’s claims are barred by 8 U.S.C. § 1252(b)(9), which limits “judicial review of all questions of law ... arising from any action taken ... to remove an alien from the United States” to a petition for review of a removal order in the court of appeals. Dkt. 8 at 10-11 (citing *Khalil v. President, United States*,

164 F.4th 259 (3d Cir. 2026)). However, as courts have found, *Khalil* has no application in cases like this one. In *Khalil*, a lawful permanent resident was detained under 8 U.S.C. § 1227(a) and sued to “enjoin [his] detention and removal as illegal” under the First and Fifth Amendments. *Id.* at 266. However, a petitioner’s “argument that he was unlawfully detained without a bond hearing under 8 U.S.C. § 1225(b)(2) does not repackage a contention against removal; the present petition does not challenge removal at all. Because the question of whether [the petitioner] is entitled to a bond hearing is not one on ‘which the validity of the final order is contingent,’ it is unfit to be raised in a PFR.” *Giyosov v. Jamison*, 2026 WL 209839, at *3 (E.D. Pa. Jan. 27, 2026). “Therefore, this Court’s review of [the petitioner’s] request for release or a bond hearing does not encourage ‘piecemeal litigation’ but rather serves as his only opportunity for review of a legal question that cannot be channeled into a PFR. For those reasons, *Khalil* is distinguishable and § 1252(b)(9) does not apply.” *Id.* at *4; *see also Kourouma v. Jamison*, 2026 WL 120208, at *3 (E.D. Pa. Jan. 15, 2026) (similar); *Coronel-Hernandez v. Woosley*, 2026 WL 227011, at *2-3 (W.D. Ky. Jan. 28, 2026) (“Unlike the petitioner in *Khalil*, she is not challenging ‘whether removing [her] would be unlawful. Instead, Coronel-Hernandez challenges Respondents’ authority to detain her without a bond hearing.”) (internal citation omitted).

Courts in this district, too, have found that § 1252(b)(9) does not bar Mr. Kumar’s claims. *E.V.*, 2025 WL 3122837, at *6-7; *see also Kaur*, 4:25-cv-2679, Dkt. 18 at 10-11. Put simply, “The question of whether statutory provisions require detention without bond hearings [does] not ‘arise from’ actions to remove noncitizens.” *E.V.*, 2025 WL 3122837, at *7 (citing *Ochoa Ochoa v. Noem*, 2025 WL 2938779, at *3 (N.D. Ill. Oct. 16, 2025); *Jennings v. Rodriguez*, 583 U.S. 281, 292-93 (2018)). Indeed, the Supreme Court has cautioned against an overbroad application of § 1252(b)(9), noting that it “does not present a jurisdictional bar” where those bringing suit “are

not asking for review of an order of removal,” “the decision to detain them in the first place or to seek removal,” or “the process by which their removability will be determined.” *Jennings*, 583 U.S. at 294-95; *see also DHS v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020). In short, Respondents offer no compelling reason for the Court to depart from rulings of numerous other district courts, including in this district, which are amply supported by case law, including from the Supreme Court.

IV. The Court should not require exhaustion, which would be futile.

Respondents next argue that the Court should require Mr. Singh to file a futile appeal with the BIA before seeking habeas relief. Respondents rely on several decisions from Judges Calabrese and Barker in this district; however, these two jurists’ decisions are substantial outliers among district courts nationwide. Petitioner is unaware of any judge elsewhere in the country who has held that administrative exhaustion is required in a case like this one. In fact, other courts in this district have properly rejected these arguments. *See Millan*, 4:25-cv-2779, 2026 WL 248376, at *8-9; *Echavarria Morales*, 3:25-cv-2691, 2025 WL 100583, at *2-3; *Kaur*, 4:25-cv-2679, Dkt. 18 at 12-14; *Lopez*, 4:25-cv-2449, 2025 WL 3280344, at *2-3. Indeed, even the handful of judges nationwide who have accepted Respondents’ novel arguments about mandatory detention under § 1225(b) have found that exhaustion is not required. *See, e.g., Cabanas v. Bondi*, 4:25-cv-4830, 2025 WL 3171331, at *3 (S.D. Tex. Nov. 13, 2025) (denying habeas relief but finding administrative exhaustion not necessary); *Cutiopala v. Noem*, 2026 WL 113567, at *1 (E.D. Mo. Jan. 15, 2026) (same).

In *Lopez*, Judge Pearson articulated a three-part test used by district courts in the Sixth Circuit to determine when prudential exhaustion applies: “(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.” 2025 WL 3280344 at *3 (citing *Diego v. Raycraft*, 2025 WL 3159106, at *3 (E.D. Mich. Nov. 12, 2025)). The *Lopez* court analyzed the factors and correctly concluded that prudential exhaustion should not be required in cases like this one because “the issues raised in the habeas petition are purely legal in nature,” “the administrative scheme ... is likely futile,” and “requiring Petitioner to go through the administrative process would be fruitless and a waste of time.” *Id.* Noting the BIA’s binding decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the long processing time for BIA bond appeals, and the BIA’s lack of authority to review constitutional challenges, the Court found that “it is clear that administrative exhaustion should be waived in this case.” *Id.* at *4. Respondents offer no compelling justification for a different outcome here.

V. Secretary Noem and Attorney General Bondi are proper respondents.

Respondents argue that only Kevin Raycraft is a proper respondent. Dkt. 8 at 4. However, courts in this circuit have found that DHS Secretary Kristi Noem and Attorney General Pamela Bondi are also proper respondents. *See, e.g., Duran-Rojas v. Raycraft*, 2026 WL 243205, at *3 (E.D. Mich. Jan. 29, 2026); *Sanchez Alvarez v. Noem*, -- F. Supp. 3d --, 2025 WL 2922648, at *8-9 (W.D. Mich. Oct. 17, 2025) (citing *Roman v. Ashcroft*, 340 F.3d 314, 322 (6th Cir. 2003)). These courts were motivated by concerns that the respondents could transfer the petitioner out of the district, making an order against only Respondent Raycraft of little use. *See Duran-Rojas*, 2026 WL 243205, at *3; *Sanchez Alvarez*, 2025 WL 2922648, at *6. Provided that Respondent Raycraft and either Respondent Bondi or Respondent Noem remain parties, Petitioner has no objection to dismissal of the other respondents.

VI. Petitioner agrees that *Maldonado Bautista* has no effect on this case.

Finally, Respondents argue that the Central District of California's ruling in *Maldonado Bautista v. Santacruz*, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), is not binding on this Court. Dkt. 8 at 22-25. Petitioner agrees, though for different reasons. The "Bond Eligible Class" in that case consists of those who "were not ... apprehended upon arrival." *Id.* at *2. Here it is undisputed, based on the documents filed by Respondents, that Mr. Kumar was apprehended upon arrival and is therefore not part of the *Maldonado Bautista* class.

CONCLUSION

As a sister district court recently put it, "If you're living in the United States, and armed men take you off the street when you've done nothing wrong, a judge must decide whether you're dangerous before the Government can keep you indefinitely locked up, separated from your family, deprived of your livelihood, stripped of your dignity and purpose, until it gets around to deciding whether to deport you." *Guaiquire v. Quinones*, 2026 WL 279369, at *9 (M.D. Fla. Feb. 3, 2026).

The Court should grant the habeas petition and order Mr. Kumar restored to his prior status (i.e., release on bond), or at the very least order a new bond hearing.

Dated: February 9, 2026

Respectfully submitted,

/s/ James D. Jenkins

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed via the Court's CM/ECF system this 9th day of February, 2026, which sent notice of such filing to all parties receiving electronic notice.

/s/ James D. Jenkins
Attorney for Petitioner