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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Juan Carlos Trejo-Bautista

Petitioner,

-against-

Donald J. Trump, et al.,

Respondents.

Case No.:
District Judge:

**PETITIONER’S REPLY
TO RESPONDENTS’
RESPONSE TO ORDER
TO SHOW CAUSE**

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Now comes Petitioner, Juan Carlos Trejo-Bautista (“Mr. Trejo-Bautista” or “Petitioner”), by and through undersigned Counsel, and hereby submits this Reply to Respondents’ Response to Order to Show Cause.

I. The Government’s Attempt to Apply § 1225 or Mandatory Detention to a Noncitizen Inside the Country and not Subject to § 1226(c) Exclusionary Criminal Conduct is Contrary to Congressional Design.

Under the system that Congress created, two statutes govern the detention of noncitizens in removal proceedings – namely §§ 1225 and 1226. The former provides for mandatory detention of noncitizens apprehended at the border, while the latter provides for both a framework for

discretionary release and one for mandatory detention upon conviction of certain exclusionary crimes. Here, Respondents posit that the mandatory framework of § 1225 applies to all noncitizens present in the United States without admission. If this interpretation were correct, § 1226 would have no meaningful application in practice. If all “applicant[s] for admission” are also “seeking admission,” then the words “seeking admission” would be surplusage. *Ortiz v. Freden*, 2025 U.S. Dist. LEXIS 217654, 2025 WL 3085032, at *15-16 (W.D.N.Y. Nov. 4, 2025) (“After all, Congress simply could have said ‘if the examining immigration officer determines that an *applicant for admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.’” (emphasis in original)).

If, as the Government is now arguing, § 1225 should be applied to Mr. Trejo-Bautista, who was initially detained and released under the discretionary framework of § 1226(a), and who is not subject to any § 1226(c) crimes mandating detention, § 1226(c) becomes entirely meaningless. It would thus fly in the face of Congressional intent, as demonstrated through statutory construction, to hold that § 1225 could properly govern the detention of an individual like Mr. Trejo-Bautista. Accordingly, were a lawful basis for his current detention to exist, the authority for such detention could only plausibly be governed by § 1226(a). As the Supreme Court recognized in *Jennings v. Rodriguez*, for either noncitizens who were inadmissible at the time of their entry, or noncitizens who have been convicted of certain criminal offenses since admission, “Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal ... Section 1226(a) sets out the default rule...” 583 U.S. 281, 288 (2018). The Government violates this rule by now arguing that Mr. Trejo-Bautista, like millions of other noncitizens who were inadmissible at the time of their entry, must be subject to mandatory detention under § 1225 without exception.

Respondents' reliance on the Fifth Circuit's logic in *Bueonrostro-Mendez* is misplaced in the Southern District of Florida. Respondents argue that any noncitizen present without inspection or admission is necessarily both an "applicant for admission" and "seeking admission." In so doing, Respondents "narrow focus on the language of § 1225(a) fails to take account of the entirety of the statutory scheme." *Echevarria v. Bondi*, 2025 U.S. Dist. LEXIS 196174, 2025 WL 2821282, at *27 (D. Az. 2025). The court in *Echevarria* explained that, while the Government's interpretation of § 1225 was intuitive when read in isolation, when "considered alongside its § 1226 companion, this comparison demonstrates that the most natural interpretation of § 1225 is that it applies to aliens encountered as they are attempting to enter the United States or shortly after they gained entry without inspection." *Id.* at 27-28 (internal quotations omitted). "Given that an immigrant submits an 'application for admission' at a distinct point in time, stretching the phrase 'at the time of application for admission' to refer to a period of years would push the statutory text beyond its breaking point." *Id.* at 18. This Court has held that "the plain reading of the statutes supports a finding that Petitioner, who has resided in the country for nearly a decade and was apprehended while already within the United States, not at the border, falls under § 1226(a), not § 1225(b)(2), and is therefore subject to discretionary bond determination." *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 LX 451385 (S.D. Fla. 2025).

The court in the Southern District of New York aptly analogized the fatal flaw in the Government's current interpretation of § 1225 as such: "[t]his understanding accords with the plain, ordinary meaning of the words seeking and admission. For example, someone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as seeking admission to the theater. Rather, that person would be described as already present there. Even if that person, after being detected,

offered to pay for a ticket, one would not ordinarily describe them as seeking admission (or seeking lawful entry) at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there. As § 1225(b)(2)(A) applies only to those noncitizens who are actively seeking admission to the United States, it cannot, according to its ordinary meaning, apply to Mr. Lopez Benitez, because he has already been residing in the United States for several years.” *Lopez Benitez v. Francis*, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at *21 (S.D.N.Y. Aug. 13, 2025).

II. Mr. Trejo-Bautista’s Detention Has Been, and Continues to be, Governed by the Discretionary Framework of § 1226(a).

By Respondents’ own admission, Mr. Trejo-Bautista was previously released on bond, thereby demonstrating that the Government previously determined that his detention was subject to the discretionary framework of § 1226(a). This matters for two reasons: (1) the Government chose the statutory track, and that election governs the detention authority; and (2) the Government cannot retroactively claim that Mr. Trejo-Bautista *was always* subject to mandatory detention under § 1225(b)—especially after having deemed him eligible for bond and supervised release. It is clear that Petitioner was always subject to discretionary, and not mandatory, detention given the steps taken by the Government when they released Mr. Trejo-Bautista to his family members on bond in or around June of 2011. Noncitizens arrested and detained under § 1226(a) have the right to request a custody redetermination before an immigration judge. *See* 8 C.F.R. §§ 1236.1(c)(8), (d)(1).

Now, nearly 15 years later, the Government seeks to retract their initial determination in favor of their new position, wherein mandatory detention applies to the millions of noncitizens in the United States postured similarly to Mr. Trejo-Bautista. This novel reinterpretation of the statutory

framework governing detention reflects the administration's change in immigration policy, wherein § 1225 is now a more favorable authority for the Government, as it results in mandatory detention for all who entered the country without admission. While the Attorney General is granted broad authority to set and review immigration policy, such policy must still ultimately comply with constitutional requirements. The Department of Homeland Security's ("the Department" or "DHS") detention authority is not unfettered, and it cannot whimsically "cherry-pick" a detention authority depending on their litigation posture. Mr. Trejo-Bautista is a person, not a number to fill a detention quota. Having lived in the United States for nearly 15 years, Mr. Trejo-Bautista cannot be detained without meaningful opportunity for individualized review of his custody, nor can detention be sustained if such review is not rationally related to a legitimate governmental interest.

III. Administrative Exhaustion is not Required.

Respondents incorrectly suggest that Mr. Trejo-Bautista must wait for an Immigration Court to deny him relief before petitioning this Court for habeas relief. "Where Congress specifically mandates, exhaustion is required." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1991). But when it is not mandated, the decision to require exhaustion is within the sound discretion of the court. *Id.*; *see also Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013). "Prudential exhaustion is a judge-made doctrine that enables courts to require administrative exhaustion even when the statute or regulations do not." *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019). Courts apply a three-pronged analysis in determining when to apply prudential exhaustion, weighting whether: (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. *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983).

Here, the Court's authority to prudentially waive administrative exhaustion is proper as the issues raised in Mr. Trejo-Bautista's petition: (1) are purely legal in nature and do not require the agency to develop a record; (2) include a due process claim, rendering the administrative scheme futile; and (3) are unlikely to yield administrative relief due to Respondent's novel re-interpretation of the Immigration and Nationality Act ("INA").

Administrative remedies are unavailable for Mr. Trejo-Bautista due to the Board of Immigration Appeals' ("BIA") recent in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Hurtado*, the BIA's holding divests immigration judges ("IJ") with the jurisdictional authority to hear custody redetermination requests or grant bond for noncitizens who entered the United States without inspection. As such, noncitizens situated similarly to Mr. Trejo-Bautista, who would otherwise be eligible for bond under the Government's long-standing interpretation of Sections 1225 and 1226, are instead being unlawfully denied any meaningful individualized review of their custody. This notion is constitutionally fragile insofar as detention that bears no rational relation to a legitimate governmental interest violates the Due Process clause of the Fifth Amendment. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (noting that "[t]he Supreme Court has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection" including an individualized detention hearing); *United States v. Salerno*, 481 U.S. 739, 755 (1987).

The BIA's decision in *Yajure Hurtado* is binding upon the agency and the immigration courts alike, rendering the administrative process a futile means by which to seek the relief that Mr. Trejo-Bautista now petitions this Court for – namely, his release from detention. This Court can and

should exercise its inherent authority to prudentially waive exhaustion in the instant matter. Such waiver is particularly appropriate here, as Mr. Trejo-Bautista's interest weighs heavily against requiring administrative exhaustion due to its utter futility and inability to afford him the relief that he seeks. *See McCarthy*, 503 U.S. at 145. Exhaustion is excused where delay caused by it would result in hardship. *See Shalala v. Illinois Council*, 529 U.S. 1, 13 (2000). Requiring Mr. Trejo-Bautista to exhaust a demonstrably futile remedy only serves to delay the relief that he now seeks before this Court, thereby furthering the harm that he suffers through his erroneous deprivation of liberty without judicial review.

The absence of an IJ bond hearing is not due to Mr. Trejo-Bautista's failure to ask; it is due to DHS' statutory designation, which he challenges *here and now* before this Court. That is precisely the role of habeas. Courts routinely hear and grant habeas petitions challenging the legal basis of detention before the Department has provided any hearing. Mr. Trejo-Bautista's core complaint is the absence of a hearing itself.

IV. Civil Detention is not a Prerequisite to Initiate Removal Proceedings.

Respondents incorrectly suggest that in petitioning this Court for habeas relief, Mr. Trejo-Bautista is asking the Court to prohibit the commencement of removal proceedings against him. Through this suggestion, Respondents seem to be suggesting that removal proceedings against a noncitizen can only be commenced or pursued while the noncitizen is detained. This notion is baffling, to say the least. More importantly, however, it is reflective of Respondents' current interpretation of the law and demonstrative of their unyielding position that potentially millions of noncitizens living in this country – many who have been here for years – are subject to mandatory detention with no opportunity for an individualized review of their custody.

Mr. Trejo-Bautista does not challenge the commencement of his removal proceedings 15 years ago in 2011. He challenges the unconstitutional nature of his current detention, in 2026, without the opportunity for meaningful individualized review thereof. He challenges the erroneous deprivation of due process that he suffers every day that he remains detained without such review. Mr. Trejo-Bautista challenges the Government's novel re-interpretation of the statutory framework governing the detention of noncitizens, like himself, who have lived in the United States for years and have availed themselves of the constitutional protections afforded to all people within our borders.

Respondents' position that Mr. Trejo-Bautista's challenge relative to the basis of his detention is enough to trigger § 1252(b)(9) because "detention is an 'action taken ... to remove' an alien" stretches the statutory text well beyond its breaking point. In fact, removal proceedings are the proper action to remove a noncitizen, though such proceedings can and frequently do occur while the noncitizen remains in a non-detained posture. Respondents' argument lacks more than just merit – it seems to lack a fundamental understanding of the INA and the nature of removal proceedings.

V. Conclusion.

Mr. Trejo-Bautista's arrest and subsequent re-detention occurred without any material change in circumstances. The Department arbitrarily re-detained him nearly 15 years after having initially detained and released him, upon his arrival in the United States, under the discretionary framework of § 1226(a). Mr. Trejo-Bautista's due process rights are now being violated through his inability to seek a custody redetermination through the statutory framework created by Congress. His rights continue to be violated every day that he remains in detention with no opportunity for any meaningful individualized review of his custody. This Court has the

authority to redress this ongoing violation of Mr. Trejo-Bautista's rights, and accordingly, must grant his petition for writ of habeas corpus.

Because Mr. Trejo-Bautista's underlying detention is fundamentally unlawful, and because he has already been assessed relative to risk of flight and danger to the community, this Court should either immediately release him, or in the alternative, exercise its inherent authority to hold a federal bond hearing in this Court, as the proper venue for relief. Alternatively, should this Court feel assured that an immigration court will follow its lawful order to do so, it should order the immigration court to hold a bond hearing within **seven** days or release him from custody, where the Department bears the burden of proof relative to perceived danger to the community or risk of flight, and such proof be held to the heightened clear and convincing standard of evidence. Mr. Trejo-Bautista further requests that, should an amount of bond be deemed necessary for his release, then such an amount be set in a manner that properly accounts for his ability to pay.

Respectfully submitted on this 17th day of February, 2026.

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