UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:26-cv-20422-BB

GREGORIO US CASTRO,
Petitioner,

v.

CHARLES PARRA, in his official capacity as Assistant Field Office Director, Krome North Service Processing Center, *et al.*,
Respondents.

_____/

RESPONSE TO ORDER TO SHOW CAUSE

Respondents[1], by and through the undersigned Assistant United States Attorney, consistent with this Court's Order requiring a response by January 26, 2026 (ECF No. 7), respectfully submit the following response in opposition to Petitioner Gregorio Us Castro's ("Petitioner") Petition for Writ of Habeas Corpus (ECF No. 1) ("Petition").

INTRODUCTION

By way of the Petition, Petitioner, in relevant part, asks this Court to declare that Petitioner's detention cannot fall under Immigration and Nationality Act ("INA") § 235, 8 U.S.C. 1225 and that Petitioner must be given an individualized bond hearing within the discretionary

[1] The Petition named Respondents as the Assistant Field Office Director of the Krome North Service Processing Center; Miami Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations; the Acting Director of Immigration and Customs Enforcement; the Secretary of the Department of Homeland Security; the Attorney General; and the Executive Office for Immigration Review. (ECF No. 1 at 15-20). The proper respondent in the instant case is Assistant Field Office Director Charles Parra in his official capacity, *see* 28 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 438 (2004). The remaining Respondents should be dismissed as parties to the instant action. *See Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024). "In challenges to present physical confinement…the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Padilla*, 542 U.S. at 435-40, 439; *see also Diaz v. United States*, 580 Fed. Appx. 716, 717 (11th Cir. 2014) (stating the Eleventh Circuit "emphasized that there was not a single case in which it had deviated from the rule that a habeas petitioner challenging his present physical custody was required to name his immediate custodian as respondent and file his petition in the district of his confinement.")

scheme of 8 U.S.C. § 1226. ECF No. 1 at ¶¶ 3-7. Accordingly, this case comes down to a question of statutory interpretation, specifically, what statutory provision controls Petitioner's detention.

Section 1225(b)(2)(A) mandates detention for "an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Pursuant to § 1225(a), "[a]n alien present in the United States who has not been admitted … shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner entered the United States without inspection on an unknown date. *See* Exhibit A, Form I-862, Notice to Appear ("NTA"), dated October 6, 2025; Exhibit D, Declaration of Deportation Officer ("DO") Erasmo Suarez at ¶ 7. Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.

FACTUAL BACKGROUND

Petitioner is a native and citizen of Guatemala who last entered the United States without inspection on an unknown date. *Id.*

On October 4, 2025, U.S. Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO") encountered Petitioner at the Lee County Jail in Fort Myers, Florida, following a traffic violation. *See* Exhibit B, Form I-213, Record of Deportable/Inadmissible Alien. Petitioner was arrested by local law enforcement for the crime of No Valid Driver's License pursuant to Florida Statute § 322.03(1). *See* Exhibit C, Arrest/Notice to Appear Probable Cause Statement, dated October 4, 2025. This criminal charge is still pending before the Lee County court. *See* Exhibit D, Declaration of Deportation Officer ("DO") Erasmo Suarez. ICE ERO determined that Petitioner was removable under 8 U.S.C. § 1182 (a)(6)(A)(i). *See* Exhibit B, Form I-213. On that same day, ICE ERO issued Petitioner a Warrant for Arrest. *See* Exhibit E, Form I-200, Warrant for Arrest of Alien, dated October 4, 2025. On October 6, 2025, ICE ERO took custody of Petitioner. *See* Exhibit B, Form I-213.

On October 6, 2025, Petitioner was issued a Notice to Appear (NTA) charging Petitioner with removability pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), in that Petitioner was an alien present in the United States without being admitted or paroled, or who arrived in the United States at a time or place other than as designated by the Attorney General. *See* Exhibit A, Form I-862, NTA, dated October 6, 2025.

Petitioner subsequently filed a request for a bond redetermination hearing with the Krome Immigration Court, and a hearing was set for December 11, 2025. *See* Exhibit F, Notice of Custody Redetermination Hearing in Immigration Proceedings, dated December 1, 2025. On December 11, 2025, the immigration judge issued an order taking no action on Petitioner's request for a custody redetermination. *See* Exhibit G, Order of the Immigration Judge, dated December 11, 2025. To date, Petitioner has not filed a new request for a custody hearing. *See* Exhibit D, DO Declaration.

Petitioner remains in ICE custody at the Krome North Service Processing Center ("Krome"), pending the conclusion of his removal proceedings. *See* Exhibit H, Detention History. Petitioner is next scheduled for a hearing before the Executive Office for Immigration Review ("EOIR") on February 9, 2026. *See* Exhibit I, Notice of Hearing in Removal Proceedings, dated January 21, 2026.

On January 22, 2026, Petitioner filed this habeas petition, challenging his continued detention under 8 U.S.C. § 1225(b). Petitioner is an applicant for admission properly detained pursuant to section 8 U.S.C. § 1225(b)(2)(A).

ARGUMENT

I. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of § 1225(b)(2), DHS is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) ("Our analysis begins and ends with the text.").

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) defines "applicant for admission" to encompass an alien who either "arrives in the United States" or who is "present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). "Admission" under the INA means lawful entry after inspection by immigration authorities, and

not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien's presence in the United States or the alien's distance from the border.

In turn, § 1225(b)(2) provides that "an alien who is an applicant for admission" "*shall* be detained" pending removal proceedings if the "alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statute's use of the term "shall" makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien's presence in the country or where in the country the alien is located. Therefore, the statute's plain text mandates that DHS detain all "applicants for admission" who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was "present in the United States," and he has "not been admitted." 8 U.S.C. § 1225(a); Exh. A. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner "be detained for a proceeding under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission Under § 1225(b)(2) Are Seeking to Be Legally Admitted into the United States.

As explained above, Petitioner is an "applicant[] for admission" under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an "applicant for admission" *is* necessarily "seeking admission." Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to withdraw their application for admission and depart from the United States voluntarily, is "seeking admission," *i.e.*, seeking legal authority to remain in the United States.

1. The "seeking admission" clause does not negate or otherwise limit the statutorily defined term "applicant for admission".

Section 1225(b)(2) requires the detention of an "applicant for admission, if the examining immigration officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an "applicant for admission" is a means of "seeking admission"—no additional affirmative step is necessary. In other words, every "applicant for admission" is inherently and

necessarily "seeking admission," at least absent a choice to pursue voluntary withdrawal of their application for admission.

For example, § 1225(a) provides that "[a]ll aliens … who are applicants for admission *or otherwise* seeking admission or readmission … shall be inspected." 8 U.S.C. § 1225(a)(3) (emphasis added). The word "[o]therwise' means 'in a different way or manner[.]'" *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster's Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (*en banc*) ("or otherwise" means "the first action is a subset of the second action"). Being an "applicant for admission" is thus a particular "way or manner" of seeking admission, such that an alien who is an "applicant for admission" *is* "seeking admission" for purposes of § 1225(b)(2)(A).[2] No separate affirmative act is necessary. *See Matter of Lemus*, 25 I & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws"). Accordingly, § 1225(b) unambiguously provides that an alien who is an "applicant for admission" is "seeking admission," even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

As explained above, an "applicant for admission" is "seeking admission" under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that "is not a license to rewrite" § 1225 "contrary to its text." *See Barton v. Barr*, 590 U.S. 222, 239 (2020); *Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) ("sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance" especially when "the arguably redundant words that the drafters employed … are functional synonyms" (alterations accepted and emphasis in original)).

"The canon against surplusage is not an absolute rule." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). "Redundancies are common in statutory drafting—sometimes in a

---

[2] As § 1225 shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission," not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not "applicants for admission" because they are already admitted, but they still may be "seeking admission." *See* 8 U.S.C. § 1103(A)(13)(C).

congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication." *Barton*, 590 U.S. at 239. "[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Id.* Thus, as the Supreme Court explained in *Barton*, "Sometimes the better overall reading of [a] statute contains some redundancy." *Id.*

Moreover, "the surplusage cannon … must be applied with the statutory context in mind" and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

C. Section 1226 Does Not Support Petitioner's Argument.

Petitioner's reliance upon, and reference to, 8 U.S.C. § 1226 is unavailing. Petitioner's detention is controlled by § 1225(b)(2), not § 1226.

Sections 1225 and 1226 are separate statutory provisions that provide independent bases for detention and, generally, apply to different groups of aliens. While there is some overlap between the aliens subject to detention under the two detention provisions, that overlap does not create a redundance because the two statutes provide for different bases for release.

Section 1226(a) authorizes the Executive to "arrest[] and detain[]" *any* "alien" pending removal proceedings but provides that the Executive also "may release the alien" on bond or conditional parole. 8 U.S.C. § 1226(a). Section 1226(a) provides the detention authority for the significant group of aliens who are *not* "applicants for admission" subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) ("the specific governs the general").

Section 1226(c) provides for mandatory detention and is an exception to § 1226(a)'s discretionary detention regime. It requires the Executive to detain "any alien" who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions.

See 8 U.S.C. § 1226(c)(1)(A)-(E). Petitioner has not committed one of the specified offenses and has not engaged in terrorism-related actions. Accordingly, he is not detained under § 1226(c).

D. The Government's Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly, the Government's reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA's prior framework, which distinguished between aliens based on physical "entry," had

> the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection … were subject to mandatory custody.

Yajure Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R.

Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") ("illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection").

Congress discarded that regime through enactment of the IIRIRA. Among other things, that law had the goal of "ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, the IIRIRA replaced the prior focus on physical "entry" and instead made lawful "admission" the governing touchstone. The IIRIRA defined "admission" to mean "the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the "pivotal factor in determining an alien's status" would be "whether or not the alien has been *lawfully* admitted." House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner's interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law, yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that the IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner's interpretation. *King*, 576 U.S. at 492 (rejecting "petitioners' interpretation because it would … create the very [thing] that Congress designed the Act to avoid"). The Government's reading, on the other hand, is true to Congress's intent and should be adopted.

E. The Government's Reading Accords with *Jennings*.

The Government's interpretation is consistent with the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to "impos[e] an implicit 6-month time limit on an alien's detention" under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with

the Government's reading, the Court recognized in its description of § 1225(b) that § "1225(b)(2) .... serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* at 287.

II. Petitioner's Due Process Claims Fail

Petitioner's constitutional claims fail as a matter of law. Mandatory detention under § 1225(b) has repeatedly been upheld as constitutionally permissible. *See Jennings v. Rodriguez*, 583 U.S. at 299–301. The Fifth Amendment does not require bond hearings for noncitizens detained pursuant to valid statutory authority, nor does Petitioner possess a protected liberty interest in release on bond where Congress has mandated detention. The Due Process Clause does not prohibit Congress from imposing categorical detention rules in the immigration context. *See Demore v. Kim*, 538 U.S. 510, 528 (2003).

Petitioner's reliance on *Zadvydas v. Davis* is misplaced. To the extent that Petitioner argues that his detention violates his Due Process rights, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) (ECF No. 1 at ¶ 56), this Court should reject any claim under *Zadvydas* because *Zadvydas* governs post-removal-order detention under § 1231, not pre-removal detention under § 1225. Moreover, Petitioner fails to allege that he is subject to "prolonged or indefinite" detention, which was at issue in *Zadvydas*. A habeas petition under 28 U.S.C. § 2241 is limited to challenges to the fact or duration of custody that violate the Constitution or laws of the United States. The petitioner bears the burden of demonstrating that detention is unlawful.

Detention is not meant as a punishment and is not indefinite; an alien's detention is tailored only to the purpose of securing the alien's removal. The Supreme Court has repeatedly upheld detention of noncitizens during removal proceedings without individualized bond hearings. *See Demore v. Kim*, 538 U.S. 510, 523–28 (2003). Applicants for admission possess significantly diminished constitutional protections, and detention at the threshold of entry is a core sovereign function. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). No due process right to a bond hearing exists under § 1225(b)(2). Because Congress mandated detention under § 1225(b)(2), due process does not require a bond hearing that Congress chose not to provide. *See Jennings*, 583 U.S. at 302–03.

III. Petitioner's Eighth Amendment Claim Fails as a Matter of Law

Petitioner's assertion that his continued immigration detention violates the Eighth Amendment's Excessive Bail Clause is meritless and should be rejected. The Eighth Amendment does not confer a right to bail in civil immigration detention proceedings, nor does it require a bond hearing for noncitizens detained pursuant to the INA.

As an initial matter, removal proceedings are civil—not criminal—in nature. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003). Because immigration detention is a civil regulatory measure designed to ensure attendance at removal proceedings and effectuate removal, constitutional protections applicable in the criminal context do not apply in the same manner. *See further Kansas v. Hendricks*, 521 U.S. 346, 361 (1997). Critically, the Supreme Court has long held that the Eighth Amendment's Excessive Bail Clause does not guarantee a right to bail in deportation or removal proceedings. In *Carlson v. Landon*, 342 U.S. 524 (1952), the Court squarely rejected the argument that denial of bail to detained noncitizens violated the Eighth Amendment, explaining that "[t]he Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country." *Id.* at 545. The Court emphasized that deportation proceedings are civil and that Congress may lawfully authorize detention without bond for certain categories of noncitizens. *Id.* at 538–46. Consistent with Supreme Court precedent, courts within the Eleventh Circuit have repeatedly recognized that noncitizens have no constitutional right to release on bond under the Eighth Amendment during immigration detention. *See Cadet v. Bulger*, 377 F.3d 1173 (11th Cir. 2004) (removal proceedings are civil, not criminal in nature, do not constitute "punishment" and do not violate the Eighth Amendment).

More recently, the Supreme Court reaffirmed that detention under the INA may be mandatory and without individualized bond determinations where Congress has so provided. *Demore*, 538 U.S. at 531; *Jennings v. Rodriguez*, 583 U.S. 281 (2018). In *Jennings*, the Court rejected constitutional avoidance arguments seeking to impose bond hearing requirements on immigration detention statutes, making clear that such requirements cannot be judicially engrafted where Congress has chosen otherwise. *Id.* Petitioner's argument rests on the incorrect premise that the Eighth Amendment "right to bail" applies categorically to immigration detention. It does not. The Constitution prohibits excessive bail where bail is available; it does not require that bail be available in all circumstances, particularly in civil immigration proceedings governed by statute.

Carlson, 342 U.S. at 545. Accordingly, Petitioner's claim that his detention violates the Eighth Amendment fails as a matter of law and provides no basis for habeas relief.

IV. Petitioner Failed to Exhaust His Administrative Remedies.

The Petition should be dismissed because Petitioner has failed to exhaust available administrative remedies. Although exhaustion under § 2241 may be prudential, courts routinely require exhaustion in detention cases absent exceptional circumstances. *See Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). Petitioner has not shown that administrative review is unavailable, futile, or incapable of providing relief. Indeed, the BIA is the appropriate forum to resolve the legal issues surrounding detention authority under §§ 1225 and 1226. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

Immigration Judges generally set conditions for bond and hold hearings on the same, and regardless, their decision is appealable to the BIA who plainly has jurisdiction to determine whether an IJ properly denied an alien detainee's motion for bond redetermination. Moreover, contrary to Petitioner's claim, as set forth in the EOIR Policy Memo 25-45 the BIA and IJs can consider constitutional challenges to the INA – such could include a Fifth Amendment challenge to the BIA's interpretation of 235(b)(2) in *Yajure Hurtado*. *See* https://www.justice.gov/eoir/eoir-policy-manual/memoranda-pm-list. Here, Petitioner has refused to avail himself of the administrative process and remedies available to him before proceeding to this Court in hopes of shopping for a more favorable forum. Petitioner's attempt to bypass the BIA simply because of disagreement with its precedent does not excuse exhaustion. Accordingly, the Petition should be dismissed for failure to exhaust administrative remedies.

CONCLUSION

For the reasons set forth above, the Petition for Writ of Habeas Corpus should be denied.

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

By: */s/ John Ghannam*
Assistant U.S. Attorney
Florida Bar No. 1031575
United States Attorney's Office
Southern District of Florida
99 NE 4th Street, Florida 33132
Telephone: (305) 961-9030
E-mail: John.Ghannam@usdoj.gov
Counsel for Respondents

CERTIFICATE OF COMPLIANCE

I certify that on January 26, 2026, I uploaded the attached document to the Court's PACER system.

By: */s/ John Ghannam*
John Ghannam
Assistant United States Attorney