

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

ELEAZER UBALDO FELIX-DOMINGO,

Petitioner,

v.

Case No. 3:26-cv-141-MMH-SJH

GARRETT RIPA, et al.,

Respondents.

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**REPLY TO RESPONDENTS' RESPONSE**

Petitioner, through undersigned counsel, respectfully submits this Reply to Respondents' Response to the Court's Order to Show Cause. (Doc. 7).

**I. The Government Concedes the Controlling Legal Framework in This District**

Respondents acknowledge that numerous judges in this District have concluded that detention of individuals such as Petitioner is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A). *See* Doc. 7 at 5.

Respondents further acknowledge that this Court's decision in *Juan Miguel Gomez-Pena v. Secretary, DHS*, No. 3:25-cv-1287-MMH-MCR (Doc. 13), 2026 WL 83980 (M.D. Fla. Jan. 12, 2026), and *Hector Gutierrez Ortiz v. Kristi Noem*, No. 3:25-cv-1386-MMH-MCR (Doc. 14), 2025 WL 3653217 (M.D. Fla.

Dec. 17, 2025) would control the result here if the Court adheres to that decision. *See* Doc. 7 at 5.

There is no material distinction between the legal issues presented in *Gomez-Pena* and those presented here. *See Gomez-Pena v. Sec'y, Dep't of Homeland Sec.*, No. 3:25-CV-1287-MMH-MCR, 2026 WL 83980 (M.D. Fla. Jan. 12, 2026). As set forth in the Petition (Doc. 1), Petitioner entered without inspection on or about May 3, 2018, as an unaccompanied alien child (UAC) minor. *See* Doc. 7 at 3. He has been residing in the United States since May 3, 2018, and he is now in § 1229a removal proceedings. *Id.* He is not subject to expedited removal, Respondents contend he is detained under § 1225(b)(2) (Doc. 7 at 4). Petitioner filed his Application for Asylum and Withholding on June 20, 2023, which is currently pending. *See* Doc. 1 at ¶¶43 and 45; *see also* Doc. 1-4. Furthermore, he has valid employment authorization, is gainfully employed, and had a valid driver's license when he was stopped. *See* Doc. 1 at ¶¶43 and 45; *see also* Doc. 1-2; Doc. 1-3.

Under the statutory structure of the INA, detention in these circumstances falls under § 1226(a). The Government does not meaningfully dispute the factual posture. Instead, it preserves its legal disagreement while conceding this Court's precedent governs absent reconsideration. *See* Doc. 7 at 1-2.

Additionally, it should be noted that Respondents aver that Petitioner has an Immigration Hearing today, Friday, the 13th of March, 2026. *See* Doc. 7 at ¶8. However, this is inaccurate. Petitioner’s “Master Hearing” is scheduled for March 13, 2028. (emphasis added). (Attached hereto and incorporated herein is EOIR Automated Case Information, printed March 13, 2026 at 2:54 pm, as Petitioner’s Exhibit “A”).

## **II. The Government’s Preservation Posture Does Not Alter the Legal Analysis**

Respondents state they “reserve all rights” and are appealing similar rulings to the Eleventh Circuit. *See* Doc. 7 at 2..

That appellate posture does not alter this Court’s present obligation to apply the law as interpreted in this District. Until the Eleventh Circuit rules otherwise, this Court’s prior decisions in *Juan Miguel Gomez-Pena v. Secretary, DHS*, No. 3:25-cv-1287-MMH-MCR (Doc. 13), 2026 WL 83980 (M.D. Fla. Jan. 12, 2026), and *Hector Gutierrez Ortiz v. Kristi Noem*, No. 3:25-cv-1386-MMH-MCR (Doc. 14), 2025 WL 3653217 (M.D. Fla. Dec. 17, 2025) remains controlling authority within this case. The mere existence of a pending appeal does not suspend the binding effect of this Court’s own precedent. *See* Doc. 7 at 7.

## **III. Exhaustion Is Excused for the Reasons Already Established**

Respondents again reference exhaustion. *See* Doc. 7 at 8. As set forth in

the Petition (Doc. 1):

1. The Immigration Judge lacks jurisdiction to conduct a bond hearing when DHS classifies detention under § 1225(b)(2)(A) pursuant to *Matter of Yajure Hurtado*.
2. The Board of Immigration Appeals is bound by that precedent.
3. The administrative process cannot grant the relief sought.

Courts in this District have repeatedly held that exhaustion is excused in precisely these circumstances. Respondents' abbreviated response does not meaningfully rebut that conclusion.

Where the agency insists no bond jurisdiction exists, exhaustion is futile.

#### **IV. The Statutory Framework Compels Application of § 1226(a)**

As detailed in the Petition (Doc. 1):

1. § 1226(a) governs detention "pending a decision on whether the alien is to be removed."
2. § 1225(b) governs individuals seeking admission at the border or recently encountered upon arrival.
3. Petitioner was not apprehended at a port of entry.
4. He is in standard removal proceedings under § 1229a.

Courts across the country, and within this District, have concluded that § 1226(a) governs detention in these circumstances.

Until recently, DHS had a longstanding practice of treating aliens already present in the country as detained under § 1226 and subject to bond hearings. *See In re Yajure Hurtado*, 29 I.&N. Dec. 216, 225 (BIA 2025). Respondents recent about-face toward mass mandatory detention under § 1225

was solemnified by the Board of Immigration Appeals (“BIA”). *See id.* at 229. Unfortunately for Respondents, the Supreme Court recently concluded that “agencies have no special competence in resolving statutory ambiguities. Courts do.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400–01, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024). And “[c]ourts interpret statutes, no matter the context, based on the traditional tools of statutory construction, not individual policy preferences.” *Id.* at 403, 144 S.Ct. 2244. There is no uncertainty here. The BIA is wrong, and Respondents are wrong, and plainly so. *See Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496, at \*9 (D.N.J. Sep. 26, 2025) (concluding that the court need not defer to the BIA’s incorrect decision in *Hurtado* because the statute is clear). The Government’s reliance on *Matter of Yajure Hurtado* does not override the statutory text. *See* Doc. 7 at 5. Nor does it overcome this Court’s prior reasoning rejecting that interpretation.

## V. Separation of Powers

Nevertheless, there is a stronger constitutional reason to reject the BIA’s incorrect interpretation of the INA, namely separation of powers as stated in a recent decision from this District, by Judge Roy Dalton Jr. *See Daniela Guaiquire, v. Louis A. Quinones, Jr., et al.*, No. 6:26-CV-169-RBD-RMN, 2026 WL 279369 (M.D. Fla. Feb. 3, 2026) (citation cleaned up). Judge Dalton commented extensively upon the dangers of the Executive Branch’s current trend of encroaching upon the judiciary, opining that:

While the relative sphere of power of the three branches is currently under great strain, Article III courts are serving as the proverbial “judicial finger in the constitutional dike.” *Conejo Arias v. Noem*, No. SA-26-CV-415 (W.D. Tex. Jan. 31, 2026) (Biery, J.).

“It is emphatically the province and duty of the judicial department”—not the Executive—“to say what the law is.” *Marbury v. Madison*, 5 U.S. 137, 177 (1803). The Judiciary “has imposed upon it by the constitution, the solemn duty to interpret the laws,...and however disagreeable that duty may be, in cases where its own judgment shall differ from that of other high functionaries, it is not at liberty to surrender, or to waive it.” *United States v. Dickson*, 40 U.S. 141, 162 (1841). “Separation-of-powers principles are intended, in part, to protect each branch of government from incursion by the others. Yet the dynamic between and among the branches is not the only object of the Constitution’s concern. The structural principles secured by the separation of powers protect the individual as well.” *Bond v. United States*, 564 U.S. 211, 222 (2011).

The American people rebelled against the tyrant King George III in part because he “made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries,” leading to judges abusing the rights of the people to curry favor with the Executive. THE DECLARATION OF INDEPENDENCE ¶ 11 (U.S. 1776). So the Framers, in their genius, established the Judiciary as independent from the Executive to protect the people—for, as Alexander Hamilton wrote, “liberty can have nothing to fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments.” THE FEDERALIST No. 78, at 403 (Alexander Hamilton) (Gideon ed., 1818). “A Judiciary free from control by the Executive and the Legislature is essential if there is a right to have claims decided by judges who are free from potential domination by other branches of government.” *United States v. Will*, 449 U.S. 200, 217–18 (1980).

Often unappreciated by the general public is that immigration judges serve at the whim of the President. See generally Alisa Chang, *The Trump Administration Fires at Least 7 Immigration Judges in New York*, NPR (Dec. 2, 2025),

<https://www.npr.org/2025/12/02/nx-s1-5628393/the-trump-administration-fires-at-least-7-immigration-judges-in-new-york>. They are members of the Executive branch, not independent Article III judges. They lack life tenure and are dependent on the President for their livelihood. They cannot always be expected to safeguard the rights of individuals in the same way as the independent

Judiciary must. *See Stern v. Marshall*, 564 U.S. 462, 483–84 (2011). So no, the Judiciary won't be deferring to the Executive branch about what the law says.

Nor will this Court acquiesce to a statutory interpretation urged by the Executive that reads out entire sections drafted by the Legislature. Just as the Judiciary must remain independent for this country to function, so too must the Legislature. The power to eliminate entire portions of statutes rests with the elected members of the Congress of these United States. *See id.*; *Marbury*, 5 U.S. at 177. Adopting the Government's interpretation of § 1225, which by necessity acts as if § 1226 does not exist, amounts to the Executive's unilateral elimination of an act of Congress, something wholly alien to our system. *See Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 3713987, at \*12 (C.D. Cal. Dec. 18, 2025) ("Respondents' expansive interpretation...would effectively nullify a portion of the INA through [ ] DHS's . . . interpretive exercise of power."). What the Government is in effect urging is to give the Executive free rein to rewrite acts of Congress to suit its purpose and to tell the Judiciary what those laws must mean. This the Court cannot do, for it would fall victim to the very evils the Framers rejected 250 years ago. So the Court gives *Hurtado* the deference a decision drafted by immigration judges wholly beholden to the Executive deserves: none.

*Daniela Guaiquire*, 2026 WL 279369 at \*8-9 (emphasis added).

It is unfortunate that Respondents recent about-face toward mass detention under § 1225 requires this Court to serve as the proverbial "judicial finger in the constitutional dike"—*Conejo Arias v. Noem*, No. SA-26-CV-415

(W.D. Tex. Jan. 31, 2026) (Biery, J.)—so that “the political branches have [not] the power to switch the Constitution on or off at will” lest it “lead to a regime in which ... [the Executive Branch], not th[e Supreme] Court, say[s] ‘what the law is.’ ” *Boumediene v. Bush*, 553 U.S. 723, 765 (2008) (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803)).

## VI. Fifth Circuit Decision

Respondents argue that “the Fifth Circuit was decided in favor of the Federal Respondents in *Buenrostro-Mendez v. Bondi*, No. 25-20496[, 2026 WL 323330] (5th Cir. Feb. 6, 2026), concluding ‘the government’s position is correct,’ reversing ‘the district courts’ orders to provide petitioners with bond hearings or release them.’ ” See Doc. 7 at 7-8.

However, Respondents fail to acknowledge that (1) the *Buenrostro-Mendez* court did not reach the due process question, confining its analysis and holding to statutory interpretation—see generally *Buenrostro-Mendez*, 2026 WL 323330, at \*1–10—(2) the case was remanded to the district court, not for dismissal, but “for further proceedings consistent with this opinion”—(*id.* at \*10)—and (3) even federal district court judges in Texas—who are bound by the Fifth Circuit’s decision in *Buenrostro-Mendez*—have concluded that the

panel's 2–1 decision permits them to continue ordering the release of certain noncitizens on alternative grounds<sup>1</sup>.

In particular, the judges have relied on constitutional arguments asserting that individuals with longstanding ties to the United States possess a cognizable liberty interest. Under the Constitution, such an interest may not be deprived without, at minimum, an opportunity to be heard before a neutral judicial officer. Judge Kathleen Cardone, an El Paso based appointee of George W. Bush, stated that, “[t]his conclusion is not changed by the Fifth Circuit’s recent decision,” and concluded that the Fifth Circuit’s decision “has no bearing on this Court’s determination of whether [the petitioner] is being detained in violation of his constitutional right to procedural due process.” *See Cumbe Lema v. De Anda-Ybarra*, 3:26-cv-00249, Doc. 7 at 2-3 (W.D. Tex. Feb. 9, 2026).

Judge David Briones, an El Paso-based Clinton appointee, reached an analogous conclusion, stating that, “[t]he Court reiterates its original holding that noncitizens who have ‘established connections’ in the United States by virtue of living in the country for a substantial period acquire a liberty interest in being free from government detention without due process of law.” *See*

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<sup>1</sup> Kyle Cheney, *Judges May Have Found a Way to Bypass 5th Circuit Ruling Upholding Trump’s Mass Detention Policy*, POLITICO (Feb. 10, 2026, 1:58 PM EST), <https://www.politico.com/news/2026/02/10/texas-immigration-detention-rulings-00774124>.

*Hassen v. Noem, Secretary, U.S. Department of Homeland Security*, 3:26-cv-00048, Doc. 8 at 3-4 (W.D. Tex. Feb. 9, 2026).

## **VII. Bond Hearing**

Respondents aver that should this Court grant Petitioner's Petition for Writ of Habeas Corpus, outright release is inappropriate. *See* Doc. 7 at 8-9. They contend that the Executive Office for Immigration Review are responsible for bond hearings, not ICE. *See Id.*

As such, Petitioner takes the time to highlight the fact that the immigration court system ("ICS") has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights. ICS is not an independent adjudicative body. *See Correa Cabral v. Quinones, et al.*, No. 6:26-cv-425-GAP-LHP, Doc. 20 (M.D. Fla. Mar. 4, 2026) (holding that "Respondents do not concede, or even mention, is that the Government has manipulated the process to ensure that Petitioner has no reasonable possibility of obtaining release on bond.")

The ICS operates under the Department of justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with the Department of Homeland Security ("DHS") have systematically dismantled the integrity of the ICS to turn it into an extension of DHS' deportation and detention operations. The evidence of EOIR's

institutional capture falls into five categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence:

- (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda;
- (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate;
- (3) the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications;
- (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and
- (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals. Each category is addressed in turn below.

As of September 26, 2025, the administration has terminated 128 immigration judges<sup>2</sup> ("IJs"). Former New York IJ David K.S. Kim<sup>3</sup> explained the targeting criteria: "I do not know the exact reason for my termination, but most of those dismissed, including myself, were judges with high asylum approval rates." This is not the complaint of disgruntled employees—these are career jurists with decades of combined experience who felt compelled to speak out publicly.

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<sup>2</sup> *Trump Administration Continues Firing Immigration Judges -- IFPTE responds*, IFPTE (Sept. 26, 2025), <https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-responds>.

<sup>3</sup> Woo-Sun Lim, *Former judge highlights legal failures in U.S. worker detentions*, The Dong-A Ilbo (Sept. 20, 2025), <https://www.donga.com/en/article/all/20250920/5859412/1>.

The terminated and resigned judges consistently reported three themes, the first being explicit pressure to act as instruments of mass deportation rather than as neutral adjudicators. Former Baltimore IJ Emmett Soper<sup>4</sup> stated: “I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that they see the immigration courts as a tool for this administration to advance its policy objectives.” Former San Francisco IJ Jeremiah Johnson<sup>5</sup> similarly understood “the hint that they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due process, essentially.” Former San Francisco IJ George Pappas<sup>6</sup> was even more direct: “We were told to facilitate deportation... Due process is dead in immigration courts.”

The second theme reported is a pervasive climate of fear designed to ensure compliance. Former Baltimore IJ David C. Koelsch<sup>7</sup> described it as “an

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<sup>4</sup> Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>

<sup>5</sup> Hilda Gutierrez, Michael Bott & Son Vo, ‘An all-out attack on immigration court:’ *SF immigration judges speak out after firings*, NBC Bay Area (Nov. 25, 2025), <https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/>.

<sup>6</sup> Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law360 (Oct. 31, 2025), <https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside>.

<sup>7</sup> Poggio, *supra* note 5.

atmosphere of paranoia and fear, which is exactly what they want.” Former Annandale IJ Anam Petit observed: “There’s a climate of fear...Judges feel like, if they step a toe out of line right now...or they’re one [asylum] grant away from being fired because of the arbitrary nature of the firings.”<sup>8</sup> Former New York IJ Carmen Maria Rey Caldas<sup>9</sup> similarly described judges working “under ‘constant threat’ of getting fired if they don’t follow certain rules from leadership.”

The final theme reported is the inevitable compromise of judicial independence when self-preservation requires favoring the government. Former San Francisco IJ Elizabeth Young<sup>10</sup> explained: “I’ve talked to many of [the judges still serving], and they’re like, ‘When I go into court, I am concerned about applying the law, but I’m also concerned that I should deny more, because if I don’t, then I’ll get fired.’”<sup>12</sup> Former Boston IJ Sarah Cade<sup>11</sup> reached her breaking point: “I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process.

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<sup>8</sup> Eric Katz, *‘Climate of Fear’: Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump’s Firings*, Gov’t Executive (Nov. 14, 2025), <https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-syste-m-jeopardy-due-trumps-firings/409544/>.

<sup>9</sup> Isabela Dias, *‘Fired for No Reason’: Former Immigration Judges Speak Out Against Trump’s Assault on the Courts*, Mother Jones (Oct. 9, 2025), <https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/>.

<sup>10</sup> Poggio, *supra* note 5.

<sup>11</sup> Poggio, *supra* note 5.

So I left and I went to private practice.”<sup>13</sup>

The message to remaining immigration judges is unmistakable: impartiality is a terminable offense. No adjudicator can remain objectively neutral when faced with the choice between upholding due process and maintaining their livelihood. Any immigration judge assigned to Petitioner’s bond hearing now operates under the understanding that granting bond may cost them their position.

A parallel purge ensued at the BIA reducing its membership from 28 members to 15 members. All Biden appointees on the BIA were fired. The statistical impact is stark. As of January 22, 2026, the reconstituted BIA has issued 71 published decisions.<sup>12</sup> Of those, 69 decisions (97%) favored the administration. By contrast, during the entire four-year span of the prior administration, the BIA issued 76 published decisions.<sup>13</sup> Of those, 46 decisions (60%) favored the administration. The transformation from 60% to 97% pro-government outcomes—achieved through wholesale termination<sup>14</sup> of one

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<sup>12</sup> Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep’t of Just. (Jan. 21, 2025), <https://www.justice.gov/eoir/volume-29>.

<sup>13</sup> Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep’t of Just. (June 13, 2025), <https://www.justice.gov/eoir/volume-28>. (First decision, *Matter of DIKHTYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

<sup>14</sup> Am. Imm. Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12, 2025), <https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/>.

administration's appointees—speaks for itself.

To replace purged judges, the DOJ launched recruitment for what it explicitly marketed as “deportation judges.” DHS—a party in immigration proceedings before EOIR—promoted these IJ openings on social media<sup>15</sup> with enforcement-focused language: “Bring the hammer down on criminal illegal aliens” and “Defend your communities, your culture, your very way of life.”

In addition, the DOJ has authorized up to 600 military lawyers to serve as temporary IJs for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary IJ.<sup>16</sup> Previously, temporary judge candidates were required to have served as a former immigration judge, appellate immigration judge, or administrative judge within another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing “any attorney” to be selected as a temporary IJ and reduced training to approximately two weeks—far less than the standard training for permanent immigration judges, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.<sup>17</sup>

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<sup>15</sup> dhsgov, Instagram (Nov. 21, 2025), <https://www.instagram.com/p/DRVT8DmCQKD/?hl=en>.

<sup>16</sup> Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025).

<sup>17</sup> Margy O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*, Brennan Ctr. for Just. (Sept. 29, 2025),

Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting<sup>18</sup>: “I see more deportations of illegal immigrants in the near future”—an explicit acknowledgment of the mass deportation policy objective underlying these appointments and the erosion of institutional boundaries between DOJ and DHS. In December, one of the appointed temporary judges was fired just a month into his six-month term. “That judge, Christopher Day, had granted asylum claims in just over half the cases he heard.”<sup>19</sup>

Beyond personnel changes, EOIR’s new acting director, Sirce E. Owen, quickly released “a string of sharply worded policy memos” that immediately “[set] the tone for her leadership.” “Sources familiar with Owen described her as a ‘restrictionist loyalist’ with a reputation for denying cases.” The Catholic Legal Immigration Network (CLINIC) observed that “these memos also seem intended to reshape EOIR, which is meant to be a neutral arbiter, into a politically driven tool advancing the Trump administration’s clearly anti-immigrant views.” The policy directives include: a memorandum dated June

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<https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially>.

<sup>18</sup> Corey R. Lewandowski (@CLewandowski), X (Sept. 2, 2025, 1:47 PM), <https://x.com/clewandowski/status/1962950546652070269>.

<sup>19</sup> Radley Balko, “*The courts are dead.*” *An interview with a fired immigration judge*, The Watch (Jan. 8, 2026), <https://radleybalko.substack.com/p/the-courts-are-dead-an-interview>

27, 2025 warning judges not to demonstrate “bias directed against DHS” or to be “adjudicatory outliers,” at risk of “close examination and potential action”; a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections; and memorandums restricting immigration judges’ ability to grant continuances and administrative closure.

However, the clearest evidence that EOIR has abandoned its role as an impartial tribunal comes from its response to federal court orders protecting bond hearing rights. In *Maldonado Bautista v. Santacruz*, the Central District of California issued both declaratory and injunctive relief holding that noncitizens who entered without inspection but were not apprehended at the border are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025). Judge Sunshine Sykes certified a nationwide class and entered final judgment. *Id.* Rather than comply with the order, EOIR leadership directed all immigration judges to ignore the order. On January 13, 2026, Chief Immigration Judge Teresa L. Riley sent an email to all immigration judges instructing:

Please provide the following guidance to all immigration judges

forthwith: *Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore *Yajure Hurtado* remains binding precedent on agency adjudications. For clarification, declaratory judgments differ from injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of compelling specific action by a party. Thank you for your attention to this matter.

The impact was immediate. ACLU attorneys reported that immigration judges who had begun granting bond hearings in compliance with Judge Sykes' ruling abruptly reversed course after receiving Chief Judge Riley's directive. Judges were placed in an untenable position: either follow a federal district court order and risk losing their jobs, or disregard that order to preserve their positions.

On January 16, 2026, Judge Sykes issued a scathing order directly addressing the government's systematic defiance:

This matter is yet another in a slew of habeas petitions following the Court's ruling in *Bautista v. Santacruz* that has unfortunately become routine in this Court. But individuals filing these habeas petitions are not to blame; rather, the current volume of habeas petitions and temporary restraining orders being filed can be attributed to *Respondents' deliberate choice to continue defying the final judgment entered in Bautista. ...*

Despite the clarity of the Court's previous orders and legal doctrines that preclude Respondents from relitigating issues at the heart of these requests, Respondents continue to manufacture arguments for sake of opposition. At this point in time, **the Court can no longer confer Respondents with the benefit of the doubt as to the intent of their filings.**

Despite the final judgment in *Bautista*, it appears that immigration judges continue to rely on legal interpretations that were expressly found unlawful. ... Respondents are collaterally estopped from relitigating the issue as to whether Bond Eligible Class members are entitled to the exact relief as provided in the *Bautista* final judgment. Accordingly, Respondents are collaterally estopped from relitigating this issue against all members of the Bond Eligible Class.

*Palomera Baltazar v. Janecka*, No. 5:26-cv-00019-SSS-BFM at \*2-3 (C.D. Cal. Jan. 16, 2026). (emphasis added).

As evinced *supra*, Judge Sykes' findings are a condemnation of the Executive Branch's encroachment upon the judiciary: the government is not merely disagreeing with her legal conclusions—it is engaged in “deliberate” defiance, “manufacturing arguments,” and instructing immigration judges to rely on “interpretations that were expressly found unlawful.” This is not a case of good-faith disagreement over statutory interpretation. “Judges across the country—the vast majority who have considered this question—have told the Government many times in the past few months that its interpretation of the law is wrong.” See *Gimenez Rivero v. Sheriff John Mina, et al.*, No. 6:26-cv-66-RBD-NWH, 2026 WL 199319, at \*5 (M.D. Fla. Jan. 26, 2026).

Respondents' assertion of a “battle of the string cites” (Doc. 7 at 7) is misplaced, and further evinces their obstinate determination to argue issues contrary to controlling precedent and law. See *Gimenez Rivero*, 2026 WL 199319, at \*5. (“If the Government is going to argue for expanding the

interpretation of a law or maintain a widely rejected position to preserve its appellate rights, it may do so. But its lawyers must make those arguments in a way that comports with their professional obligations, as lawyers have done since time immemorial: Cite the contrary binding authority and argue why it's wrong. **Don't hide the ball. Don't ignore the overwhelming weight of persuasive authority as if it won't be found.**") (emphasis added).

The Government is not simply mistaken—it is openly defying federal court orders. EOIR leadership has instructed immigration judges to disregard binding judicial rulings while signaling that compliance could threaten their jobs. This extraordinary institutional pressure eliminates any possibility of a neutral adjudicator and deprives detainees, including Petitioner, of the most basic constitutional guarantees of due process. Because removal proceedings often last several years, ICE's reliance on § 1225 in these circumstances functions as a prolonged, unlawful detention regime that courts around the country have repeatedly rejected. Unless the Executive abandons its untenable interpretation or nationwide relief is imposed, individuals like Petitioner will continue to be held for years without the process the Constitution mandates.

At bottom, this radical shift in policy constitutes a thinly veiled attempt to utilize detention as an instrument of suffering, to psychologically and

financially coerce immigrants to abandon the legal process. John Gihon<sup>20</sup>, a Board Certified Immigration and Nationality Law Attorney in Florida, and former DHS Attorney, commented on this, stating, “[d]etention is the easiest way to deport people... People who would stay in the country and fight their case on the non-detained docket ... [decide] ‘I don’t want to sit in custody at all, I just want to go back to my country.’”

### VIII. Conclusion

This Court has already rejected Respondents’ arguments in prior cases that presented the same issues. The only appropriate remedy, under the facts of this case, is for the Petitioner to be immediately released. Petitioner’s immediate release is required to return him to the status quo. The status quo refers to “the last uncontested status which preceded the pending controversy.” *Doe*, 778 F.Supp.3d at 1166 (citing *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)). That is the moment prior to Petitioner’s unlawful detention, wherein he was lawfully present with valid Employment Authorization Documents until June 24, 2029. *See* Doc. 1-3; *see also Singh v. Andrews*, No. 25-cv-00801, 2025 WL 1918679, at \*5, 2025 U.S. Dist. LEXIS

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<sup>20</sup> Jason Buch, *How Trump’s ICE Is Locking Up Longtime Texans with Paths to Legal Status*, Texas Observer (Feb. 9, 2026, 11:44 AM CST), <https://www.texasobserver.org/trump-ice-detention-bond-prosecutorial-discretion/>

132500, at \*13 (E.D. Cal. July 11, 2025) (entering a preliminary injunction ordering immediate release of immigration detainee on similar circumstances).

There remain no safeguards in the Immigration Court System to adequately protect Petitioner's liberty interests. As such, the only suitable relief is for this Court to immediately release Petitioner and enjoin and restrain Respondents and all other persons or entities acting in active concert or participation with them from re-arresting or re-detaining Petitioner until June 24, 2029. Alternatively, Petitioner requests Oral Arguments should the Court determine that immediate release is unwarranted on the pleadings.

As such the Petition for Writ of Habeas Corpus should be granted.

DATED this 13th day of March, 2026.

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