

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

KEILER DANIEL RODRIGUEZ  
MANRESA ,  
Plaintiff,

Case No.2:26-cv-00149-KCD-DMF

v.

KRISTI NOEM, ET AL.,  
  
Defendants,

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**PETITIONER'S REPLY TO RESPONSE TO PETITION FOR  
WRIT OF HABEAS CORPUS**

Petitioner, Keiler Daniel Rodriguez Manresa, by and through undersigned counsel, files this Reply to Respondents' Response to the Petition for Writ of Habeas Corpus and respectfully requests that the Court grant the Petition and order the appropriate relief.

***MATTER OF YAJURE HURTADO*, 29 I&N DEC. 216 (B.I.A. 2025) AND SECTION 1225**

Respondents rely on the Board of Immigration Appeals (BIA) examination of the plain language of Section 1225 in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). However, *Matter of Yajure Hurtado* is an incorrect interpretation of the law and just mirrors the Department of Homeland Security (DHS) and Department of Justice (DOJ) Interim Guidance

acknowledging a new interpretation of the Immigration and Nationality Act (INA) as to DHS's authority to detain noncitizens. *Matter of Yajure Hurtado* is functionally the equivalent to the DHS Interim Policy. On February 18, 2026 the United States District Court for the Central District of California in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025) vacated *Matter of Yajure Hurtado*. Further Section 1225(b)(1) establishes the procedures for expedited removal. It allows immigration officers to remove noncitizens "without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i). As expedited removal affords substantially fewer protections to the noncitizen's rights, the INA limits its applicability in two ways. First, noncitizens may be eligible for expedited removal "only if they are inadmissible on the basis that they either lack proper entry documents or falsified or misrepresented their application for admission." *Coalition for Humane Immigrant Rights v. Noem*, --- F. Supp. ---, ---, 2025 WL 2192986, at \*5 (D.D.C. 2025) (citing 8 U.S.C. §§ 1225(b)(1)(A)(i) and 1182(a)(6)(C), (a)(7)). And "[a]mong that set, only two categories of noncitizens are eligible for expedited removal: (1) noncitizens 'arriving in the United States,' and (2) noncitizens who 'ha[ve] not been admitted or paroled into the United States' and cannot affirmatively show that they have been 'physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility.'" *Id.* (quoting 8 U.S.C. § 1225(b)(1)(A)(i)–(iii)). In the present case, DHS could have designated Petitioner for expedited removal when he entered the country in 2022, instead they released him under section 1226 (a), issued an NTA before the Immigration court and allow him to stay for almost four years before arresting him. As a result, Petitioner is not eligible for expedited removal, and Respondents' authority to detained him stems from section 1226 (a). Therefore, Petitioner is entitled to a bond hearing under section 1226 (a).

## **SECTION 1252(B)(9) DOES NOT BAR HABEAS REVIEW OF DETENTION CHALLENGES**

Respondents also argue that Title 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims, Petitioner disagree for the following reasons:

### **A. The Statutory Framework Distinguishes Detention from Removal Claims**

Section 1252(b)(9) bars district court review of claims "arising from" actions or proceedings brought to remove an alien. Ozturk v. Hyde, 136 F.4th 382 (2d Cir. 2025), Mahdawi v. Trump, 136 F.4th 443 (2d Cir. 2025). However, the Supreme Court has emphasized that this provision must be interpreted narrowly and applies only to discrete listed actions. United States v. Hovsepian, 359 F.3d 1144 (9th Cir. 2004). Claims seeking review of the legality of a petitioner's detention are not subject to the § 1252(g) bar on judicial review because challenges to unlawful detention do not "arise from" the government's decision to execute removal orders. Ozturk v. Hyde, 136 F.4th 382 (2d Cir. 2025).

The Ninth Circuit's analysis in Nadarajah v. Gonzales, 443 F.3d 1069 (9th Cir. 2006) demonstrates the proper scope of § 1252(b)(9). J. E. F.M. v. Whitaker, 908 F.3d 1157 (9th Cir. 2018). That court concluded that § 1252(b)(9) did not bar district court review of a challenge to prolonged immigration detention before a final order of removal had issued, explaining that the REAL ID Act eliminates federal habeas corpus jurisdiction over final orders of removal in favor of petitions for review that raise constitutional claims or questions of law. J. E. F.M. v. Whitaker, 908 F.3d 1157 (9th Cir. 2018).

**B. Petitioner's Claims Are Collateral to Removal Proceedings**

Petitioner's detention challenge is fundamentally different from the removal proceedings themselves. He contests whether he is properly detained under § 1225(b)(1)(B)(ii) versus § 1226(a), and whether he is entitled to a bond hearing. These claims concern the statutory authority for detention and procedural due process rights, not the merits of removability. A petitioner's claim concerning detention may be resolved without affecting pending removal proceedings. Ozturk v. Hyde, 136 F.4th 382 (2d Cir. 2025). Here, granting Petitioner release or ordering a bond hearing would not interfere with any removal proceedings, as DHS has already moved to dismiss the underlying removal case.

**C. No Final Order of Removal Exists**

The petition for review process under § 1252(a)(1) applies to challenges to "final orders of removal." Velázquez v. Bondi, 604 U.S. 712, 145 S. Ct. 1232 (2025). A final order of removal is "a final order concluding that the alien is deportable or ordering deportation." Velázquez v. Bondi, 604 U.S. 712, 145 S. Ct. 1232 (2025). In this case, no final order of removal exists because the Immigration Judge granted DHS's motion to dismiss the removal proceedings. Without a final order of removal, channeling Petitioner's detention challenge into the petition for review process would create a jurisdictional void where no forum exists to address his claims. Courts should avoid statutory interpretations that would eliminate all judicial review of constitutional claims.

**SECTION 1252(G) DOES NOT BAR REVIEW OF DETENTION AUTHORITY**

Respondents also argue that Title 8 U.S.C. § 1252(g) bars review of Petitioner's claims, Petitioner disagree for the following reasons:

The Court's jurisdiction is preserved under established exceptions to § 1252(g)'s general bar on judicial review. Petitioner's habeas petition challenges the legality of his detention, not the underlying removal proceedings or removal order. Alvarez v. United States Immigration & Customs Enft, 818 F.3d 1194 (11th Cir. 2016). Federal courts consistently recognize that § 2241 habeas proceedings remain available for constitutional and statutory challenges to detention, particularly where statutory review procedures are insufficiently protective. Alvarez v. United States Immigration & Customs Enft, 818 F.3d 1194 (11th Cir. 2016).

The jurisdictional analysis must distinguish between challenges to removal orders, which are generally barred by § 1252(g), and challenges to detention authority, which remain cognizable under § 2241. Gonzalez-Alarcon v. Macias, 884 F.3d 1266 (10th Cir. 2018). Here, Petitioner specifically challenges his detention under both statutory and constitutional theories, arguing that he is improperly classified under § 1225(b) when § 1226(a) should apply, and that his prolonged detention without a bond hearing violates due process.

#### **A. The Narrow Scope of Section 1252(g)**

In Reno v. Am.-Arab Anti-Discrimination Comm., 525 U.S. 471, 119 S. Ct. 936 (1999), the Supreme Court emphasized that § 1252(g) applies only to discrete listed actions and "was directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion." United States v. Hovsepian, 359 F.3d 1144 (9th Cir. 2004). Courts have followed the Supreme Court's instruction to interpret § 1252(g) narrowly. United States v. Hovsepian, 359 F.3d 1144 (9th Cir. 2004).

Section 1252(g) bars review of three specific decisions: (1) to commence proceedings, (2) adjudicate cases, or (3) execute removal orders. Petitioner does not seek review of any of these prosecutorial decisions.

**B. Petitioner Challenges Custody Authority, Not Prosecutorial Discretion**

Petitioner's challenge focuses on the statutory basis for his detention and his constitutional right to a hearing, not on DHS's prosecutorial decisions. He argues that he cannot be classified as an arriving alien subject to mandatory detention under § 1225(b)(1)(B)(ii) because he has been residing in the United States for over three years since his 2022 entry. This challenge to the legal authority for detention is distinct from the prosecutorial decisions protected by § 1252(g). Courts regularly distinguish between challenges to detention procedures and challenges to removal decisions.

**FEDERAL JURISDICTION EXISTS**

**Habeas Corpus Jurisdiction Under 28 U.S.C. § 2241**

This Court has jurisdiction under 28 U.S.C. § 2241 to review challenges to the legality of immigration detention. The REAL ID Act's elimination of habeas jurisdiction applies to final orders of removal, not to collateral challenges to detention authority. Kamara v. AG of the United States, 420 F.3d 202 (3d Cir. 2005), J. E. F.M. v. Whitaker, 908 F.3d 1157 (9th Cir. 2018).

Petitioner is physically detained within this District, satisfying the custody requirement for habeas jurisdiction.. His challenge to the statutory basis for detention falls squarely within the traditional scope of habeas corpus review.

**EXHAUSTION IS EXCUSED AS FUTILE**

Respondents also argue that Petitioner failed to exhaust his administrative remedies, Petitioner disagree for the following reasons:

Exhaustion is excused where administrative remedies would be futile. Here, the Government's position is that Petitioner is subject to mandatory detention under § 1225(b)(2)(A)

with no possibility of bond. Under this theory, immigration judges lack authority to grant bond hearings to applicants for admission, making further administrative proceedings pointless.

The Government cannot simultaneously argue that Petitioner is subject to mandatory detention without possibility of administrative relief and then fault him for failing to pursue that unavailable relief. The futility exception applies precisely to these circumstances where the agency's legal position forecloses the possibility of meaningful administrative review.

**RELIEF REQUESTED**

For the foregoing reasons, Petitioner respectfully requests that the Court:

Grant the Petition for Writ of Habeas Corpus.

Issue a Writ of Habeas Corpus, either (1) ordering her immediate release, (2) requiring an individualized custody redetermination hearing with an immigration judge

Grant such other and further relief as the Court deems just and proper.

Respectfully submitted

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on February 19, 2026, the foregoing response was electronically filed with the clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted

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