IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GURDEEP SINGH *Petitioner,* v. MICHAEL ROSE, et. al., *Respondents.*	CIVIL ACTION No. 26-cv-593

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR HABEAS CORPUS

Petitioner filed this petition against Respondents for a violating the Immigration and Nationality Act (INA) by applying the incorrect detention statute and holding Petitioner in custody without a bond redetermination hearing (Count 1), violating the Agency's bond regulations (Count 2) and violating Petitioner's Fifth Amendment constitutional right to due process of law by holding him in mandatory immigration detention without the opportunity for a bond hearing (Counts 3 and 4). Respondents filed a response to Petitioner's complaint arguing the court lacks jurisdiction to consider the petition, that Petitioner is properly detained under 8 U.S.C. § 1225(b), consistent with *Matter of Q. Li.*, and that Petitioner's detention does not violate his constitutional due process rights. *See* Resp. Opp. Br.; ECF No. 4. Petitioner now files this reply to Respondents' response arguing the court retains jurisdiction over the petition, that Petitioner is detained pursuant to 8 U.S.C. § 1226(a), and that Petitioner's current detention violates his constitutional due process rights. Petitioner respectfully requests the Court grant Petitioner's petition for writ of habeas corpus.

ARGUMENT

I. The Court retains jurisdiction to hear and decide the petition for habeas corpus

A district court may grant a writ of habeas corpus to any person who demonstrates he is in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3). It has been deemed a "vital instrument" to secure freedom from unlawful restraint, which a "fundamental precept of liberty..." *See Boumediene v. Bush*, 55 U.S. 723, 739 (2008). The right to challenge confinement through such writ extends to individuals challenging their detention immigration custody. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001) ("the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.").

A. Section 1252(g) does not strip this Court of jurisdiction because the petition does not arise from the decision to commence or adjudicate removal proceedings or effectuate deportation.

Respondents first argue that § 1252(g) bars judicial review of this petition because the Attorney General and DHS's discretion to commence and adjudicate a removal proceeding includes "the decision to take him into custody and to detain him during his removal proceedings," citing the Eleventh Circuit's decision in *Alvarado v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016), and district court decisions not arising in EDPA. *See* Resp. Opp. Br. at 6-7; ECF No. 4, p. 6-7. For the government "to prevail [on jurisdictional grounds] it must overcome ... the strong presumption in favor of judicial review of administrative action." *INS v. St. Cyr*, 533 U.S. 289, 298 (2001).

The Supreme Court in *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471 (1999) ("AADC"), rejected the argument that § 1252(g) referred to all claims arising from

deportation proceedings, instead holding that it "only applies to three discrete actions…[the] 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" 525 U.S. at 482. This portion of the statute was meant to safeguard agency discretion, as each "represent[s] the initiation or prosecution of various stages in the deportation process," and "at each stage, the Executive has discretion to abandon the endeavor…" *Id.* at 483. The Third Circuit – as well as other circuit courts – have stated that § 1252(g) is to be interpreted "narrowly and precisely" to prevent review only of the three narrow discretionary decisions or actions referred to in the statute. *See Garcia v. Att'y Gen.*, 553 F.3d 724, 729 (3d Cir. 2009) (holding that the jurisdiction stripping provision of § 1252(g) was not applicable where the petitioner was challenging the government's authority to commence removal proceedings, but not their discretionary decision to commence those proceedings).

Respondents' reliance on *Alvarez* is misplaced and does not give authorization to circumvent the Supreme Court's holding in *AADC* and the Third Circuit's holding in *Garcia*. The *Alvarez* court found that Alvarez's petition contained allegations that "arose from the decision to initiate his removal proceedings, and others that arose from the execution of his removal order," and thus his detention was "closely connected to the decision to commence proceedings." *Alvarez*, 818 F.3d at 1203. Alvarez was held in mandatory detention during his removal proceedings due to a felony criminal conviction, and then subsequently was held pursuant to being issued a final order of removal for the government to effectuate his removal to a third country. *Id.* at 1197-98. The facts of *Alvarez* differ greatly from the petition at hand. Alvarez challenged the very initiation of his removal proceedings due to a stipulation in his plea deal that state the government would put forth its "best efforts… to reach a timely determination of his immigration status." *Id.* at 1203. The government deciding to initiate removal

proceedings against Alvarez necessarily included his detention, as he was transferred from criminal to immigration custody and was held in mandatory custody due to his criminal convictions.

Contrary to the case in *Alvarez*, Petitioner here is challenging his detention pre-order of removal, not post-order, and his detention is not in any way tied to the commencement of his removal proceedings nor the effectuation of his removal post-order. Like *Garcia*, Petitioner is challenging the government's *authority* to detain him throughout the pendency of his removal proceedings without access to a bond hearing, which is separate and apart from its discretionary decision to commence proceedings, adjudicate cases, or execute removal orders.

Petitioner is not challenging the Respondents' authority to commence removal proceedings against him, adjudicate any applications he files while in removal proceedings, or execute his removal if and when a removal order is entered by the immigration court. Respondents exercised their discretion to commence proceedings in April 2022, long before the filing of the instant petition, and Petitioner has timely filed an application for asylum as relief from removal. To date, a removal order has not been entered against Petitioner, and his asylum application remains pending. Rather, Petitioner argues that Respondents have exceeded their authority concerning the lawfulness of his continued detention without a bond hearing, and how the removal proceedings are being conducted, not whether they should be conducted in the first place. *See Ibarra-Perez v. United States*, No. 24-631, at *18 (9th Cir. Aug. 27, 2025) (finding section 1252(g) "does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders.").

Importantly, Petitioner is not even arguing that Respondents do not have the authority to detain him during removal proceedings—his argument rests on which detention statute applies,

and that, since § 1226(a) is the appropriate detention statute, he is entitled to a bond hearing before a neutral immigration judge. Accordingly, section 1252(g) does not divest this Court of jurisdiction over the petition.

B. Section 1252(b)(9) does not prevent this Court from retaining jurisdiction because the petition is a collateral issue and is not a request to review a decision made in the course of Petitioner's removal proceedings.

Respondents further argue this Court lacks jurisdiction under § 1252(b)(9) because the proper venue for this type of claim lies with the circuit court via a petition for review, which provides "'judicial review of all decisions and actions leading up to or consequent upon final orders of deportation, including 'non-final order[s].'" *See* Resp. Opp. Br. At 9; ECF No. 4, p. 9. Respondents cite *Jennings v. Rodriguez* in support of their position, stating that while § 1252(b)(9) "does not bar claims challenging the *conditions or scope* of detention of aliens in removal proceedings, it does bar claims 'challenging the decision to detain them in the first place.'" *See id.* Here, Petitioner does not challenge the respondents' decision to detain him in the first place, but rather the legal authority for detaining him without the opportunity for a bond hearing and the Respondent's argument that he is detained under § 1225(b) of the statute. The *Jennings* Court also "cautioned that the phrase 'order of removal' should be construed narrowly," and "where the petition is not 'asking for review of an order of removal' or 'challenging any part of the process by which their removability will be determined … § 1252(b)(9) does not present a jurisdictional bar.'" *See Quispe-Ardiles, et al. v. Noem, et al.*, 25-cv-01382 at *6 (E.D. Va. Sep. 30, 2025) (Nacmanoff, J.) (quoting *Jennings*, 583 U.S. at 294-95).

The Supreme Court's later decision in *Nielsen v. Preap* clarifies any ambiguity leftover from *Jennings* regarding this issue. In *Preap*, the Supreme Court found that § 1252(b)(9) did not bar jurisdiction in petitions filed by detainees who were denied bond hearings and subjected to

mandatory detention pursuant to 8 U.S.C. § 1226(c). *See Nielsen v. Preap,* 586 U.S. 392 (2019). The facts here are similar—the Petitioner is not alleging Respondents had no authority at all to detain him, but rather the challenge is to the authority to *detain him without a bond hearing*, and to the underlying detention statute to which Petitioner is subject. The Ninth Circuit, to which Respondents cite to establish the "breathtaking scope" of section 1252(b)(9) has held similarly. *See Gonzalez v. U.S. Immigr. & Customs Enf't*, 975 F.3d 788, 810 (9th Cir. 2020) (citing *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016)) ("[C]laims challenging the legality of detention pursuant to an immigration detainer are independent of the removal process.").

The Third Circuit has recognized that there are certain instances where review of certain immigration-related claims cannot wait. *See E.O.H.C. v. Sec'y U.S. Dep't of Homeland Sec.*, 950 F.3d 177, 180 (3d Cir. 2020). There, the circuit court analyzed the scope of § 1252(b)(9) in the context of both a challenge to the petitioners' inclusion in the Migrant Protection Protocols (MPP) and a habeas petition concerning their continued detention at Berks County. *See id.* at 183-84. The court found that neither the issue of the petitioners' interim return to Mexico under MPP nor their continued detention were "arising from" those proceedings. *Id.* at 185.

There are limitations to § 1252(b)(9), and "claims that are independent of or collateral to the removal process do not fall within the scope of § 1252(b)(9)." *See J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016). Section § 1252(b)(9) does not strip jurisdiction when the court cannot meaningfully provide the relief sought at the PFR stage—it is meant to consolidate claims into one single petition, "not to bar claims that do not fit within that process." *See E.O.H.C.*, 950 F.3d at 186.

The claims Petitioner brings concerning the legality of his continued detention without access to a bond hearing are wholly collateral to and independent from his removal proceedings.

See Gonzalez, 975 F.3d at 810; *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007). Petitioner is not challenging the legitimacy of his removal proceedings, nor any issues that arose from the merits of his removal proceedings. Instead, he challenges the independent determination of Respondents to detain him during the pendency of those proceedings, essentially challenging the scope of his detention, which is specifically permissible under *Jennings*. *See Jennings*, 583 U.S. at 294. Requiring Petitioner to wait until his removal proceedings have concluded to appeal this issue via a PFR would prevent meaningful review of his unlawful detention and which detention statute controls. It would not provide the adequate relief required, which would be Petitioner's release from custody or a finding that he must be afforded a bond hearing. Specifically, it would render Petitioner's argument partially moot, as a different detention statute governs once a final order of removal is entered, which prevents a meaningful review of Petitioner's legal argument. Accordingly, § 1252(b)(9) does not strip this Court of jurisdiction.

C. Section 1252(a)(2)(B)(ii) similarly does not strip this Court of jurisdiction because it is not a request to review a discretionary agency decision, but a review of a legal interpretation of the statute.

Lastly, Respondents argue this Court lacks jurisdiction under § 1252(a)(2)(B)(ii) because "no court shall have jurisdiction to review" the discretionary decision made by the Attorney General or the Secretary of Homeland Security. 8 U.S.C. § 1252(a)(2)(B). Petitioner does not ask this Court to review a discretionary agency decision; he asks the Court to review a purely legal question concerning the applicable detention statute and the legal authority of Respondents to hold him in mandatory immigration custody absent a bond hearing. This is a question of statutory interpretation, not an appeal of a discretionary decision. The Supreme Court has held that the government's statutory detention power is "not a matter of discretion." *Zadvydas*, 533 U.S. at 688; *see also Demirel*, No. 25-cv-05488 at *6 (E.D. Pa. Nov. 18, 2025) (Diamond, J.)

As Petitioner does not seek review of a discretionary agency decision, § 1252(a)(2)(B)(ii) does not bar jurisdiction.

II. Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and thus must be afforded a bond redetermination hearing.

A. *Matter of Q. Li* is Inapplicable to the Petitioner.

First and foremost, Petitioner disagrees with the contention by the Respondents that *Matter of Q. Li.* is applicable to the Petitioner in this case. *Matter of Q. Li* held that, "An applicant for admission who is arrested and detained *without a warrant* while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018)." 29 I&N Dec. 66 (BIA 2025) (emphasis added). Here, Petitioner was arrested with a warrant in April 2022 when he first entered the United States, and as such, does not fall within the class of individuals contemplated in *Matter of Q. Li. See,* ECF No. 1-5.

Regardless, Petitioner is alleging that *Matter of Q. Li*, and latter, *Matter of Hurtado* were both incorrectly decided, and therefore cannot form the legitimate basis for which the Respondents seek to detain Petitioner.

B. Respondents' argument runs afoul of the plain text of the statute.

Respondents' argument that 8 U.S.C. § 1225(b) controls Petitioner's detention is contrary to the plain text of the statute. Section 1225(b) provides that: "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding." 8 U.S.C. § 1225(b)(2)(A). Petitioner does not dispute that he is an

applicant for admission under the law. *See* 8 U.S.C. § 1225(a)(1). However, being an applicant for admission and *making* an application for admission (or *seeking* admission) are two different things. *See Torres v. Barr*, 976 F.3d 918 (9th Cir. 2020) (finding court in *Minto* impermissibly conflated term "applicant for admission" from INA § 235(a)(1) with term "application for admission" in INA § 212(a)(7)).

Respondents argue that since Petitioner is an applicant for admission, he must be detained pursuant to Section 1225(b)(1) or 1225(b)(2). This is an incorrect reading of the statute. All individuals who entered the United States without lawful admission, including those who were never apprehended by immigration officials and have bene living in the interior of the United States for a number of years, are nonetheless considered applicants for admission. 8 U.S.C. § 1225(a)(1). Sections 1225(b)(1) and 1225(b)(2) are reserved for those who are deemed to be seeking admission, which carries with it a temporal requirement that the person be apprehended and detained while they are seeking admission to the United States. *See Jennings*, 583 U.S. at 287 (discussing § 1225 as part of a process "that generally begins at the Nation's borders and ports of entry…"); *see also Morales Rodriguez v. Arnott et al.*, No. 25-cv-00836 (W.D. Mo. Nov. 18, 2025) (finding one who is "'seeking admission' is presently attempting to gain admission into the United States."), citing *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025) (discussing plain meaning of "seeking"); *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, *7 (S.D.N.Y. Aug. 13, 2025) (interpreting "seeking admission" to mean a person who is actively "seeking" lawful entry).

Respondents' interpretation and argument completely ignore the "seeking admission" requirement and instead focuses solely on the fact that Petitioner is an applicant for admission and therefore subject to mandatory detention. This runs afoul of the plain meaning of the statute.

Section 1226(a) provides that: "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Except as provided in subsection (c) of § 1226, individuals detained pursuant to § 1226 are entitled to a bond hearing. 8 C.F.R. § 1236.1(d)(1). The Jennings Court stated that "aliens already in the country pending the outcome of removal proceedings" may be detained pursuant to § 1226(a). *Jennings*, 583 U.S. at 289. This includes individuals who entered the United States without inspection and admission but are nonetheless still considered applicants for admission. *Id.* at 288.

Petitioner was detained at his routine ICE check-in on January 29, 2026, after he had already been in the United States for almost 4 years. *See* Petition, ECF No. 1, ¶ 21. Thus, Petitioner could not be deemed to be "arriving" or "seeking admission" into the United States at that time—he had already been living in the United States for a significant period of time. Respondents argue that § 1225 and § 1226 are not mutually exclusive, and an individual can be subject to both provisions. *See* Resp. Opp. Br. At 18; ECF No. 4, p. 18. This again ignores the portion of § 1225(b)(2) that states the applicant for admission must also be seeking admission for that provision to apply. The government has acknowledged on several occasions that the provisions are indeed mutually exclusive. *See Romero v. Hyde*, No. 25-cv-11631, 2025 WL 2403827 at *11 (D. Mass. Aug. 19, 2025); *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588 at *4 (S.D.N.Y. Aug. 13, 2025); *see also Matter of M-S-*, 27 I&N Dec. 509, 516 (A.G. 2019) ("[S]ection 235 (under which detention is mandatory) and section 236(a) (under which detention is permissive) can be reconciled only if they apply to different classes of aliens.").

Additionally, Respondents' interpretation of the statute is inconsistent with recent amendments to § 1226 and would render those changes superfluous. In 2025, Congress passed

the Laken Riley Act, which created a mandatory detention provision for noncitizens who are inadmissible to the United States pursuant to § 1182(a)(6)(A) (present in the United States without having been admitted or paroled), § 1182(a)(6)(C) (willful misrepresentation of a material fact), or § 1182(a)(7) (individuals at the time of application for admission who were not in possession of a valid unexpired immigration visa or other valid entry document) and who "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person." 8 U.S.C. § 1226(c)(1)(E). Under Respondents' interpretation of § 1225(b)(2) and § 1226, the individuals described in § 1226(c)(1)(E) would already be subject to mandatory detention pursuant to § 1225(b)(2) as they are all considered applicants for admission, since they were not lawfully admitted into the country.

This renders § 1226(c)(1)(E) wholly superfluous, not merely redundant, as the BIA found in *Hurtado* and the Respondents echo in their response. *See* Resp. Opp. Br. At 17; ECF No. 4, p. 17. "[O]ne of the most basic interpretive canons [is] that '[a] statue should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.'" *See Corley v. United States*, 556 U.S. 303, 314 (2009) (cleaned up); *see also Stone v. INS*, 514 U.S. 386, 397 (1995) ("When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect."). The Respondents' argument and interpretation render the passage of the LRA void and nonsensical. If Respondents' interpretation was in line with the plain language of the statute and the intended statutory construction, there would have been no need for Congress to pass the LRA.

Further, Respondents' argument that this interpretation is in line with legislative intent

and that Congress made a "legislative judgement" that individuals in Petitioner's position should be detained during removal proceedings is erroneous. *See* Resp. Opp. Br. at 20; ECF No. 4, p. 20. When Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, which enacted §§ 1226(a) and 1225(b)(2), EOIR drafted new bond regulations. Those regulations clearly explained that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a), despite the fact they were considered applicants for admission. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

In the decades that followed the passage of IIRIRA, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)). Nearly three decades of practice was upended with DHS's July 8 policy memo (coordinated in conjunction with the DOJ) that abruptly changed the government's position on this issue. *See* Petition, ECF 1, ¶ 30. The DOJ, via the Board of Immigration Appeals, solidified that position when it decided *Hurtado* in September 2025. Despite this policy change, it is clear that this was not Congress's intent, nor was it EOIR's intent when it issued the final bond regulations.

For these reasons, Respondents' interpretation of § 1225 is not supported by the plain meaning of the statute, the statutory construction given the recent passage of the LRA, or the

legislative intent as described in the Federal Register.

C. Respondents have treated Petitioner as detained pursuant to § 1226(a) since his arrival in the United States.

Contrary to Respondents' argument, Petitioner has been treated by the government as detained pursuant to § 1226(a) since he arrived in the United States. He was apprehended by ICE in April 2022 and released on his own recognizance pursuant to section 236 of the Act (8 U.S.C. § 1226(a)). *See* Petition, ECF No. 1-5. He was arrested in April 2022 pursuant to a warrant in arrest, also under § 1226(a), and DHS issued a Notice of Custody Determination stating that, pursuant to Section 236 of the INA (8 U.S.C. § 1226), he was being released on his own recognizance. *Id.*

The Department of Homeland Security has a breadth of discretion when it comes to the commencement and adjudication of removal proceedings. Immigration officials and the Department of Justice (DOJ) have long taken the position that immigration officials have broad discretion not to apply the detention and expedited removal procedures § 1225(b), and whether to classify individuals encountered inside the United States shortly after crossing the border as subject to § 1225(b) detention or § 1226(a) detention. *See*, Biden v. Texas, 597 U.S. 785 (2022). The DOJ has stated, "[t]he INA affords DHS multiple options for processing applications for admission," and that includes arrest and detention pursuant to § 1226(a). *Id.*

Here, Respondents exercised that discretion by arresting Petitioner pursuant to a warrant, something that can only be done if the arrest is being conducted under 8 U.S.C. § 1226, issued a Notice of Custody determination pursuant to § 1226, and released Petitioner on his own recognizance under §1226. Respondents now seek to *ex post facto* alter the detention statute under which they deem petitioner to be held, despite every document Respondents have ever provided to Petitioner indicating he is detained under § 1226(a).

Importantly, as the Supreme Court opined in *Jennings*, when an individual is detained under § 1225(b), the only mechanism for release by DHS is humanitarian parole pursuant to § 1182(d)(5). *Jennings*, 583 U.S. at 283 ("There is also a specific provision authorizing temporary parole from § 1225(b) detention 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A), but no similar release provision applies to § 1231(a)(6). That express exception implies that there are no other circumstances under which aliens detained under § 1225(b) may be released."). Petitioner could not be considered to be detained pursuant to § 1225(b) since he was not paroled out of DHS custody. He was released on his own recognizance, which is a mechanism only available when an individual is detained under §1226(a).

III. Petitioner's detention without an opportunity for a bond hearing violates due process.

Petitioner's continued detention absent the opportunity for a bond hearing similarly violates his right to due process under the Fifth Amendment. Petitioner has a fundamental liberty interest in being free from restraint and confinement. *See Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects."). Respondents argue that his detention does not violate due process, in part, because his detention was recent, citing the *Zadvydas* decision to argue that detention less than six months is presumed constitutional. *See* Resp. Opp. Br. at 21; ECF No. 4, p. 21.

The constitutional discussion in *Zadvydas* revolved around a post-removal order detention and when the detention becomes prolonged, unreasonable, and unconstitutional. 533 U.S. 678. Individuals with orders of removal are held pursuant to a completely different statute than those in removal proceedings (pre-order of removal). Petitioner is not arguing that his detention has become so prolonged that it is now unconstitutional. Rather, he argues that

continued detention during the pendency of his removal proceedings without being afforded the opportunity for a bond hearing violates his fundamental right to due process. The length of detention is not at issue here. The constitutional violation comes with the refusal to provide a bond hearing as proscribed by the statute.

Accordingly, Petitioners continued detention violates his constitutional right to due process and for that reason he should be released from detention or afforded a bond hearing before an immigration judge.

CONCLUSION

The Court should grant Petitioner's petition for habeas corpus and find that he is detained under § 1226(a) of the statute and that because his detention violates the statute and his Due Process rights, that Petitioner should be immediately released, or in the alternative, that he is provided a constitutionally complaint bond hearing in front of the Executive Office of Immigration Review.

Respectfully Submitted,

Dated: February 06, 2026

/s/ Brendan Ryan

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CERTIFICATION OF SERVICE

I certify that on February 06, 2026, I electronically filed the foregoing paper with the Clerk of Court using the ECF system, which will send notification of filing to all counsel of records.

Respectfully Submitted,

Dated: February 06, 2026

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