

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

Manuel Alejandro  
AGUILAR MENDOZA,

Petitioner,

v.

Kevin RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Julie MASSENGILL, in her official capacity as Jail Administrator of the Monroe County Jail; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 2:26-cv-10355

Hon. Denise Page Hood

**PETITIONER'S BRIEF  
IN SUPPORT OF  
PETITION FOR WRIT OF HABEAS CORPUS**

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### **ISSUES PRESENTED**

- I. Are Respondents unlawfully detaining Petitioner without a bond hearing under 8 U.S.C. § 1225(b)(2)(A), which applies only to the inspection and detention of recent arrivals at or near the border?
- II. Is Petitioner entitled to a bond hearing under 8 U.S.C. § 1226(a), which virtually every court to consider the question has found applies to noncitizens who, like Petitioner, were residing in the United States when they were apprehended and charged with inadmissibility?
- III. Have Respondents violated the Due Process Clause by detaining Petitioner, who is a long-time resident of the United States, without any individualized determination that Petitioner is a flight risk or danger such that their civil detention is necessary to facilitate removal?
- IV. Should this Court, like all others that have considered such claims, exercise its discretion to waive prudential exhaustion requirements and proceed to the merits of Petitioner's habeas corpus petition, which raises urgent statutory and constitutional claims regarding Petitioner's ongoing unlawful detention?

## **CONTROLLING OR MOST APPROPRIATE AUTHORITY**

28 U.S.C. § 2241

8 U.S.C. § 1226

U.S. Const. amend. V

### **Other Cases Raising Same Merits and Exhaustion Issues**

For a non-exhaustive list of cases raising identical issues, *see* Petition, ¶ 48.

### **Caselaw Pertaining to Statutory Claim**

*Jennings v. Rodriguez*, 583 U.S. 281 (2018)

*King v. Burwell*, 576 U.S. 473 (2015)

*United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assoc.*, 484 U.S. 365 (1988)

*Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393 (2010)

*Abramski v. United States*, 573 U.S. 169 (2014)

### **Caselaw Pertaining to Due Process Claim**

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*Mathews v. Eldridge*, 424 U.S. 319 (1976)

### **Caselaw Pertaining to Prudential Exhaustion**

*Shearson v. Holder*, 725 F.3d 588 (6th Cir. 2013).

*Shalala v. Illinois Council on Long Term Care*, 529 U.S. 1 (2000)

*McCarthy v. Madigan*, 503 U.S. 140 (1992)

*Bangura v. Hansen*, 434 F.3d 487 (6th Cir. 2006)

*McGee v. United States*, 402 U.S. 479 (1971)

## **INTRODUCTION**

Petitioner Manuel Alejandro Aguilar Mendoza came to the United States more than 3 years ago, in 2022. Since then, he has built a community of family and friends in the United States. Petitioner has no criminal history. But on October 16, 2025, he was taken into immigration custody after a traffic stop.

Had immigration authorities arrested Petitioner at any point before July 2025, the government would have provided him with a bond hearing, as it has to millions of detained noncitizens since at least the 1990s. But because of a newly announced policy flipping the prevailing understanding of the immigration statutes on its head, the government is now forcing longtime U.S. residents like Petitioner to remain in detention for the many months, or years, it will take for their immigration case to conclude—all while being separated from family, friends, and community. The government’s drastic reinterpretation of our immigration laws violates Petitioner’s statutory and constitutional rights. Petitioner now urgently seeks a writ of habeas corpus to secure his prompt release.

## **BACKGROUND**

This habeas corpus action stems from the federal government’s new policy, announced on July 8, 2025, to subject noncitizens apprehended in the interior of the United States and charged with inadmissibility to mandatory detention without bond under 8 U.S.C. § 1225(b)(2)(A), no matter how long they have resided in the United States (hereinafter the “Policy”). *See* Pet. at ¶ 7. This new Policy suddenly rejected

the well-established understanding of the immigration laws—not to mention the government’s own decades-old practice—that those same noncitizens were entitled to a bond hearing under 8 U.S.C. § 1226(a). *Id.* at ¶¶ 6–8. This Policy has affected many thousands of noncitizens who, at any point before July 2025, would have had the opportunity to be released on bond while their immigration cases proceeded. If left in place, the Policy has the potential to affect millions. *See* Kyle Cheney & Myah Ward, *Trump’s New Detention Policy Targets Millions of Immigrants. Judges keep saying it’s illegal*, Politico (Sept. 20, 2025);<sup>1</sup> Kyle Cheney, *Hundreds of Judges Reject Trump’s Mandatory Detention Policy, With No End in Sight*, Politico (Jan. 5, 2026, at 5:55 AM ET).<sup>2</sup>

Respondents’ sudden decision to detain noncitizens without bond under § 1225(b)(2)(A) was quickly met with a tsunami of habeas litigation across the country. And in virtually every single case that directly addresses the question, federal courts nationwide have flatly rejected the government’s attempt to apply § 1225(b)(2)(A) to longtime residents who were apprehended in the interior of the country and charged with inadmissibility. *See* Pet. at ¶ 48 (citing non-exhaustive list of federal district court decisions granting habeas relief to petitioners in identical

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<sup>1</sup> <https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850>.

<sup>2</sup> <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494>.

habeas corpus actions). That includes decisions in habeas actions filed in the Eastern District of Michigan. *See, e.g., Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771 (E.D. Mich. 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025). Additionally, a federal court has already certified a nationwide class of noncitizens detained pursuant to the Policy and has granted declaratory relief affirming that the government's reading of the INA is unlawful. *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3713987, at \*12, 32 (C.D. Cal. Dec. 18, 2025). Petitioner, as a member of that class, is now entitled to the benefit of the court's conclusion in *Maldonado Bautista* that his custody is governed by § 1226(a), not § 1225(b)(2).<sup>3</sup>

Undeterred by this unrelenting wave of defeat, Respondents continue to unlawfully detain thousands of noncitizens apprehended in the interior of the country without any possibility of bond. Petitioner is among those many thousands. The details of Petitioner's apprehension and detention are included in the underlying Petition. Petitioner allegedly entered the U.S. without inspection. Petitioner has

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<sup>3</sup> The *Maldonado Bautista* court also vacated the government's July 8 policy directive. 2025 WL 3713987, at \*22. The *Maldonado Bautista* petitioners did not pursue habeas or other injunctive relief on behalf of the entire class, and thus, class members are not precluded from filing habeas petitions to assert their individual claims of unlawful detention or seek individual injunctions ordering bond hearings or release.

resided in this country for over 3 years. Petitioner was taken into immigration custody after a routine traffic stop. *See* Record of Deportable/Inadmissible Alien, attached hereto as Exhibit 1. Petitioner was issued a warrant and charged with allegedly entering the country without having been inspected or admitted at some point in the past. Petitioner does not have any crimes on his record that would result in mandatory detention under 8 U.S.C. § 1226(c). *See* Pet. at ¶¶ 25-29.

After apprehending Petitioner, Respondents detained him at Monroe County Jail, which is under the jurisdiction of the ICE Detroit Field Office. *Id.* at ¶ 5, 29. ICE either decided to continue detention under the Policy or did not conduct a custody determination at all. *Id.* at ¶ 31. Petitioner was advised by immigration counsel that seeking a bond hearing would be futile. *Id.* at ¶ 32.

Petitioner then filed this habeas corpus petition alleging (1) that Petitioner's continued detention without a bond hearing violates the Immigration and Nationality Act (INA), which clearly provides that Petitioner's detention should be governed by § 1226(a)'s discretionary detention scheme; and (2) that Petitioner's detention violates his due process rights because Petitioner is being detained without any individualized determination of flight risk or danger such that his civil detention is necessary to facilitate removal.

## **ARGUMENT**

The structure, text, and legislative history of the INA make clear that § 1225

applies only to the inspection of recent arrivals at or near the U.S. border and was never meant to encompass people like Petitioner who have been residing in the interior of the country for years. Instead, § 1226 was intended to provide the proper process for detaining those latter individuals. Additionally, parsing the specific text of § 1225(b)(2)(A) further demonstrates that the provision clearly does not apply to Petitioner, since he is not an “applicant for admission” who is “seeking admission” before an “examining immigration officer.”

**I. The Structure, Text and Legislative History of the INA Make Clear that § 1225 Applies Only to the Inspection of Recent Arrivals, While § 1226 Governs the Detention of Residents Like Petitioner.**

The text, structure, and purpose of the INA all support Petitioner’s argument that § 1226(a) governs his detention, and not § 1225(b)(2)(A). As Petitioner explained in the petition, § 1226(a) and § 1225(b)(2)(A) work in tandem to cover different categories of noncitizens: § 1226 provides a discretionary detention scheme for individuals who are arrested while “already in the country” and detained “pending the outcome of removal proceedings,” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), while § 1225 (including its subsection (b)(2)(A)) is a processing and inspection scheme that applies to those “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible,” *id.* at 287. *See* Pet. at ¶¶ 36-43. Indeed, there is a “line historically drawn between these two sections” and the categories of

noncitizens they respectively cover. *Martinez v. Hyde*, 792 F. Supp. 3d 211, 221 (D. Mass. 2025).

This understanding situates each detention provision “in their context and with a view to their place in the overall statutory scheme.” *King v. Burwell*, 576 U.S. 473, 486 (2015) (citation omitted). *See also Biden v. Texas*, 597 U.S. 785, 799-800 (2022) (looking to statutory structure to inform interpretation of INA provision). Placing a provision in its larger context is especially important where the provision “may seem ambiguous in isolation” but can be “clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.” *United Sav. Ass’n of Tex. v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 371 (1988). And the one meaning which permits a logical and compatible effect here is that § 1225 and § 1226 each cover *different* categories of noncitizens.

Section 1225’s plain text shows that it is focused on inspecting people who are arriving or have just entered the United States. *See generally* 8 U.S.C. § 1225(a)–(b), (d). That section sets out procedures for “inspection[s]” of people “arriving in the United States,” 8 U.S.C. § 1225(a)(3), (b)(1), (b)(2), (d); repeatedly refers to “examining immigration officer[s],” *id.* § 1225(b)(2)(A), (b)(4); and discusses “stowaways, “crew[m]e[n],” and noncitizens “arriving from contiguous territory.” *Id.* § 1225(a)(2), (b)(2)(B), (b)(2)(C). Even the title of § 1225 refers to the “inspection”

of “inadmissible *arriving*” noncitizens (emphasis added), and the title of subsection 1225(b)(2) likewise refers to “inspection.” *See Dubin v. United States*, 599 U.S. 110, 120–21 (2023) (“This Court has long considered that the title of a statute and the heading of a section are tools available for the resolution of a doubt about the meaning of a statute . . . especially . . . [where] it reinforces what the text’s nouns and verbs independently suggest.”) (cleaned up); *Merit Mgmt. Grp., LP v. FIT Consulting, Inc.*, 583 U.S. 366, 380 (2018) (similar). Thus, by its own text, § 1225, read as a whole, makes clear that it is intended to apply to recent arrivals at or near the U.S. border. Petitioner, of course, arrived at the border years ago and has been residing in the United States since.

On the other hand, § 1226(a) is a separate detention authority that applies broadly to any noncitizen arrested “on a warrant . . . pending a decision on whether [they are] to be removed from the United States.” 8 U.S.C. § 1226(a). Section 1226(a) thus applies to those “already in the country” who are detained “pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289. On its face, the provision plainly applies to Petitioner, who was arrested “on a warrant” while already in the U.S. and is now detained “pending a decision on” his removal. *Id. See also* I-200 Warrant, attached hereto as Exhibit 2. Thus, § 1226(a), and not § 1225(b)(2)(A), is the proper detention authority for Petitioner.

The legislative history and implementing regulations likewise make clear that Section 1226(a) was always intended to apply to people who entered without inspection and are residing in the United States. *See* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting Congress’s intent for § 1226(a) to simply “restate” its predecessor statute, which provided “the authority of the Attorney General to arrest, detain, and *release on bond* a[ ] [noncitizen] who is not lawfully in the United States”) (emphasis added); Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that “[noncitizens] who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination[,]” and “[I]nadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge . . . . This procedure maintains the status quo.”).

This is not a novel interpretation of the INA. It has been *Respondents’ own* understanding of these provisions since they were first enacted thirty years ago—a view they held until suddenly reversing course in July. Indeed, Respondents’ own understanding of § 1226(a) as covering people in the interior was so uncontroversial for so long that it is now deeply entrenched in DHS’s operations. For example, the Notice to Appear form used to initiate removal proceedings against Petitioner

distinguishes between noncitizens “arriving” into the United States and those already “present in the United States.” (Here, DHS deliberately chose *not* to select the “arriving” option, instead only designating that Petitioner was “present in the United States.” *See* Notice to Appear, attached hereto as Exhibit 3.)

But now, Respondents suddenly contend that § 1226(a) does not apply to people like Petitioner who are charged with inadmissibility but have long resided in the United States, thus denying bond hearings to Petitioner and thousands like him. Respondents’ new reading defies the plain text of § 1226, which expressly applies to “inadmissible” noncitizens. Section 1226(a) states that noncitizens detained via a warrant while facing removal proceedings may be released on bond or parole “[e]xcept as provided in subsection (c).” 8 U.S.C. § 1226(a). Subsection (c), in turn, exempts certain “inadmissible” noncitizens from § 1226(a)’s discretionary detention scheme. *See* Pet. at ¶ 53. These “statutory exceptions would be unnecessary” if Congress did not intend for § 1226(a) to cover noncitizens alleged to be inadmissible, like Petitioner here. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). *See also Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256–57 (W.D. Wash. 2025) (discussing § 1226 and explaining that “when Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” (quoting *Shady Grove*, 559 U.S. at 400)).

Moreover, Congress added one of these references to inadmissibility just this year. In the Laken Riley Act, Congress added subsection § 1226(c)(1)(E), which mandates detention for noncitizens who have been arrested for, charged with, or convicted of certain crimes and who are also inadmissible under various provisions of the INA, including § 1182(a)(6)(A)—the statute under which Petitioner here is charged, and which applies to “aliens present in the United States without being admitted or paroled.” *See* Pub L. No. 119-1, 139 Stat. 3 (2025). By classifying these inadmissible noncitizens as ineligible for bond under § 1226(c) *if* they satisfy additional conditions regarding their criminal history, Congress reaffirmed that § 1226 encompasses the detention of inadmissible noncitizens. Indeed, “when Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.” *Stone v. INS*, 514 U.S. 386, 397 (1995). *See also Monsalvo v. Bondi*, 604 U.S. 712, 725 (2025) (“[w]hen Congress adopts a new law against the backdrop of a longstanding administrative construction,” courts “generally presume[] the new provision should be understood to work in harmony with what has come before.”) (internal quotation marks omitted).

Respondents’ preferred reading of the INA, which categorically places noncitizens charged with inadmissibility under § 1225(b)(2)(A), “would largely nullify a statute Congress enacted this very year, [and] must be rejected.” *Pizarro Reyes*, 2025 WL 2609425, at \*5 (quoting *Gomes v. Hyde*, No. 25-cv-11571, 2025

WL 1869299, at \*7 (D. Mass. July 7, 2025)). *See also Lopez-Campos*, 797 F. Supp. 3d at 783 (“Respondents’ interpretation of the statutes would render this recently amended section superfluous.”). That, again, is so because, if *every* noncitizen who entered without inspection was already subject to mandatory detention under § 1225(b)(2)(A), there would be no need for a separate provision (i.e., § 1226(c)) mandating detention if they also satisfied additional conditions.

In sum, the only reading of § 1226 that gives meaning to all of its parts is that it encompasses people like Petitioner who were apprehended in the interior and are charged with being inadmissible because they entered the country without inspection. Thus, because § 1226(a) clearly governs Petitioner’s detention, granting his habeas petition would uphold the INA’s text, structure, and intent.

**II. Section 1225(b)(2)(A) Also Cannot Apply to Petitioner Because Petitioner Is Not an “Applicant for Admission” Who Is “Seeking Admission” Before an “Immigration Officer.”**

Respondents’ attempt to subject Petitioner to mandatory detention under § 1225(b)(2)(A) defies the plain text of that provision. Congress made clear that to fall under Section § 1225(b)(2)(A), noncitizens must satisfy three criteria: that they be (1) an “applicant for admission” who is (2) “seeking admission” to the United States (3) before an “immigration officer.” By using these three unique terms in the same provision, Congress meant for each of them to introduce *distinct* requirements that must all be satisfied before the provision applies. *See United States, ex rel. Polansky*

*v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (“[E]very clause and word of a statute should have meaning.” (internal quotations omitted)); *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (similar); *Pulsifer v. United States*, 601 U.S. 124, 141 (2024) (similar). Petitioner does not satisfy any of these three criteria, let alone all of them. Thus, § 1225(b)(2)(A) cannot govern Petitioner’s detention.

**a. Section 1225(b)(2)(A) Cannot Apply to Petitioner Because Petitioner Is Not an “Applicant for Admission.”**

At the outset, it is questionable whether Petitioner is an “applicant for admission” as that term is used in § 1225(b)(2)(A). Section 1225(a)(1) defines an “applicant for admission” as a person who is

. . . present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters).

In a vacuum, the first clause of this definition might appear to encompass Petitioner. But it is an axiomatic principle of statutory interpretation that “we must (as usual) interpret the relevant words not in a vacuum, but with reference to the statutory context, structure, history, and purpose.” *Abramski v. United States*, 573 U.S. 169, 179 (2014) (citation modified). *See also King*, 576 U.S. at 486 (statutory terms must be understood “in their context and with a view to their place in the overall statutory scheme”) (citation omitted); *Kentucky v. Biden*, 23 F.4th 585, 603 (6th Cir. 2022) (each word must be given “its ordinary, contemporary, common meaning, while

keeping in mind that statutory language has meaning only in context.”) (cleaned up). This is the case even when a statutory term seems unambiguous, such as when it is defined in the statute. *See Yates v. United States*, 574 U.S. 528, 537 (2015).

Under any reasonable and context-sensitive understanding of these terms, Petitioner is not an “applicant for admission.” When viewed in its statutory context, this term cannot be understood without acknowledging Congress’s choice to deploy the term within § 1225’s border inspection scheme. *See* Section I. That context underscores that the definition in (a)(1) is limited by other aspects of the statute to those who undergo an initial inspection at or near the border shortly after arrival. *See Pizarro Reyes*, 2025 WL 2609425, at \*5 (“The Court finds that the overall context of § 1225 limits the scope of the terms ‘applicant for admission’ and ‘seeking admission.’”). Moreover, the term “applicant for admission” appears nowhere in § 1226, the “default” detention statute applying to those “already” in the country. *Jennings*, 583 U.S. at 288, 301. This comparative context further clarifies that the term refers to a specific category of “arriving” noncitizens being “inspected” at or near the border. *See* 8 U.S.C. § 1225. And Petitioner, of course, is not at the border applying for admission. Thus, Petitioner cannot be detained under § 1225(b)(2)(A).

**b. Section 1225(b)(2)(A) Cannot Apply to Petitioner Because Petitioner Is Not “Seeking Admission” to the United States.**

But whether or not Petitioner is an “applicant for admission,” § 1225(b)(2)(A) also requires an independent and separate showing that Petitioner is “seeking

admission” to the United States—which Petitioner very clearly is not. The term “seeking admission” is not defined anywhere in the INA,<sup>4</sup> making the structure and context of § 1225 even more instructive. Interpreting the INA properly shows that “seeking admission” describes a narrow class of recent arrivals who are presenting themselves for admission at or near the border. Petitioner clearly does not fall within that class.

Again, the structure, text, and legislative history of § 1225 clearly show that it deals with inspections of recent arrivals at or near the border. *See* Section I. By deploying “seeking admission” within § 1225’s border inspection scheme—and not § 1226—Congress intended to limit this term to covering just the detention of noncitizens seeking admission *at or near the border*. *See Pizarro Reyes*, 2025 WL 2609425 at \*5; *Martinez*, 792 F. Supp. 3d at 211. That is why the statute’s implementing regulations, which were “promulgated mere months after passage of the statute and have remained consistent over time,” *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 489 (S.D.N.Y. 2025) (cleaned up), describe those seeking admission as “arriving aliens,” 8 C.F.R. § 235.3(c)(1), who are “*coming or*

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<sup>4</sup> At most, the INA provides a definition only for the word “admission”: “the lawful entry of the [noncitizen] into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). But this partial definition does not help clarify what the affirmative act of “*seeking admission*” entails in the context of § 1225(b)(2)(A). And in any event, it does not describe what Petitioner is doing here: Petitioner is not before an “immigration officer.” *See* Section II.c., *infra*.

*attempting to come into the United States,”* 8 C.F.R. § 1.2 (emphasis added). *See Martinez*, 792 F. Supp. 3d at 219 (the regulations’ use of “arriving alien” is “roughly interchangeable with an ‘applicant . . . seeking admission’” as used in § 1225(b)(2)(A)). *See also Salcedo Aceros v. Kaiser*, No. 25-cv-06924, 2025 WL 2637503, at \*10 (N.D. Cal. Sept. 12, 2025) (same). Thus, only those who take affirmative steps to seek admission while “coming or attempting to come into the United States” can reasonably be said to be “seeking admission” under § 1225(b)(2)(A). *See Lopez-Campos*, 797 F. Supp. 3d at 781 (“seeking admission” refers to “when people are being inspected, which usually occurs at the border, when they are seeking lawful entry into this country”).

Petitioner is not presenting himself for admission at the border; he arrived at the border over three years ago and has been residing in the United States since. Petitioner simply wishes to *remain* in the country he has long called home—not to enter it. Thus, Petitioner cannot be considered to be “seeking admission” in any reasonable way, rendering § 1225(b)(2)(A) wholly inapplicable to Petitioner’s detention.

**c. Section 1225(b)(2)(A) Cannot Apply to Petitioner Because Petitioner Is Not Being “Examined” by an “Immigration Officer.”**

Third, even if Petitioner was somehow found to be an “applicant for admission” who is “seeking admission,” Section 1225(b)(2)(A) would only authorize Petitioner’s mandatory detention if an “immigration officer” “examin[ed]”

Petitioner and “determine[d]” that he was clearly inadmissible. Petitioner is currently in removal proceedings before an immigration judge, with the opportunity for further review by the BIA and the federal courts, who are tasked with determining whether Petitioner is inadmissible and subject to removal, or whether Petitioner is entitled to any relief from removal. But immigration judges are not *immigration officers* as that term is used in the statute. Nor are federal judges.

The term “immigration officer” is defined in the statute’s implementing regulations as “the following employees of the *Department of Homeland Security*,” such as asylum officers, deportation officers, and Border Patrol agents. 8 C.F.R. § 1.2 (emphasis added). Notably, the definition does not encompass immigration judges and appellate immigration judges, who are employees of the *Department of Justice* (the parent agency for the Executive Office for Immigration Review (EOIR), Board of Immigration Appeals (BIA), and immigration courts) and are covered under a *separate* definition for “immigration judge.” *See* 8 C.F.R. § 1.2. Thus, even if Petitioner was somehow an “applicant for admission” who is also “seeking admission” into the United States, Petitioner still would not fall within § 1225(b)(2)(A) because his removal proceedings are before an immigration judge, not an immigration officer.

Section 1225(b)(2)(A)’s use of the term “examining immigration officer” gives further weight to the structural argument that § 1225 obviously sets out a

scheme for inspections at or near the border, where arriving noncitizens will typically be examined by an “immigration officer”—such as when they are apprehended by a Border Patrol agent or interviewed by an asylum officer. Petitioner, however, is not being examined by immigration officers at or near the border. Instead, Petitioner is charged by a warrant with having entered the country without authorization and has now been placed in removal proceedings before an immigration judge, where he is seeking various forms of relief from removal. This is clearly not the circumstance contemplated by § 1225(b)(2)(A). Instead, it is the circumstance contemplated by § 1226 (covering people who are “pending a decision [by the immigration courts] on whether [they are] to be removed from the United States”).

In sum, under any reasonable interpretation of § 1225, Petitioner is not an “applicant for admission” who is “seeking admission” before an “examining immigration officer.” The simple reality is that Petitioner is not trying to enter the United States; he is already here. Thus, § 1225(b)(2)(A) has no role in Petitioner’s ability to be detained pending a decision on their removal.

### **III. The BIA’s Decision Upholding the Respondents’ Practice is Unavailing.**

Finally, the fact that the BIA affirmed Respondents’ practice does not change this conclusion. In *Matter of Yajure Hurtado*, 29 I.&N. Dec. 216 (BIA 2025), the BIA ruled that people who “surreptitiously cross into the United States” qualify as

“applicants for admission” under § 1225(b)(2)(A), and thus Immigration Judges “have no authority to redetermine the custody conditions of a [noncitizen] who crossed the border unlawfully without inspection,” even if that noncitizen has lived in the United States for years. *Id.* at 228. Not only is the BIA’s misguided reasoning in *Yajure Hurtado* out of step with virtually every federal court to treat the same issue, but this Court is not bound by the BIA’s interpretation of federal statutes. That is especially so now that a federal court has issued class-wide relief declaring that *Yajure Hurtado* is no longer controlling.

First, a multitude of federal courts—including in decisions issued after *Yajure Hurtado*—have addressed the exact same question and explicitly rejected the reasoning underlying the BIA’s ruling as unpersuasive and at odds with INA’s text and structure. *See, e.g., Pizarro Reyes*, 2025 WL 2609425, at \*6–7; *Beltran Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565, at \*5 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafila v. Scott*, No. 25-cv-00437, 2025 WL 2688541, at \*7–8 (D. Me. Sept. 21, 2025). As the Northern District of California explained, the BIA’s “strained interpretation” “treats the phrases ‘applicant for admission’ and ‘seeking admission’ as synonymous, which renders the phrase ‘seeking admission’ in section 1225(b)(2) superfluous.” *Valencia Zapata v. Kaiser*, No. 25-cv-07492, 2025 WL 2741654, at \*10 (N.D. Cal. Sept. 26, 2025). *See also Beltran Barrera*, 2025 WL 2690565, at \*5 (“it [is] difficult to find that an individual is ‘seeking admission’ when that

noncitizen never attempted to do so.”). There is even a final judgment in a nationwide class action brought on behalf of noncitizens detained pursuant to the Policy—a class that includes Petitioner—that squarely rejects the BIA’s reasoning and concludes that it is “no longer controlling.” *Maldonado Bautista*, 2025 WL 3713987, at \*12. Second, federal courts are “not bound by the BIA’s interpretation” of the INA. *Pizarro Reyes*, 2025 WL 2609425 at \*6. To the contrary, federal courts “must exercise independent judgment in determining the meaning of statutory provisions.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394, 412 (2024). A court’s decision of whether to find an agency interpretation persuasive depends on “the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.” *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944). And here, the BIA’s reasoning in *Yajure Hurtado* fails to explain why or how dozens of federal courts have gotten the answer wrong. And it fails to explain why the agency itself held the contrary position for decades. “Realistically speaking, if Congress’s intention was so clear, why did it take thirty years to notice?” *Romero v. Hyde*, 795 F. Supp. 3d 271, 287 (D. Mass. 2025).

Thus, like every federal court to consider the persuasiveness of *Yajure Hurtado*, this Court should decline to follow the superficial reasoning of the BIA

and instead exercise its “independent judgment in determining the meaning of statutory provisions.” *Loper Bright*, 603 U.S. at 394.

#### **IV. Due Process Entitles Petitioner to a Bond Hearing.**

Petitioner’s ongoing detention without bond also violates his due process rights.<sup>5</sup> At the “heart” of the Fifth Amendment’s due process clause is “the freedom from imprisonment—government custody, detention, and other forms of physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Depriving a person of their liberty is only permissible as punishment for crimes, or in “certain special and narrow nonpunitive [i.e. civil] circumstances.” *Id.* (quotation omitted). That due process guarantee extends to noncitizens regardless of “whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.<sup>6</sup>

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<sup>5</sup> Interpretations of the detention provisions of the INA that raise serious constitutional doubts must be rejected whenever it is “fairly possible” to do so, such as when reasonable statutory interpretation resolves a question about the applicability of a statute. *Zadvydas*, 533 U.S. at 689 (2001).

<sup>6</sup> While the government may argue that due process protections are diminished for some people who are apprehended while crossing the border, *see DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020), that is not true for people like Petitioner who have resided in the U.S. and “develop[ed] the ties that go with” longtime residence. *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Indeed, there has long been a legal “distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, *irrespective of its legality.*” *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (emphasis added).

Civil immigration detention is not punishment for a crime. Thus, it can only be justified “where a special [non-punitive] justification . . . outweighs the individual’s constitutionally protected interest” in liberty—usually only by a finding that such detention is necessary to prevent their flight or protect against dangers to the community. *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also United States v. Salerno*, 481 U.S. 739, 750 (1987). A hearing on whether such a special justification necessitates civil detention is the most basic protection required by the Fifth Amendment. *See Zadvydas*, 533 U.S. at 690; *Foucha v. Louisiana*, 504 U.S. 71, 79 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997); *Addington v. Texas*, 441 U.S. 418, 428 (1979). And the nature of that hearing is governed by the classic balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). That test weighs (1) the nature of “the private interest” being deprived; (2) “the risk of erroneous deprivation” and (3) the “fiscal and administrative burdens” posed by providing additional process. *Id.* All three *Mathews* factors favor Petitioner.

As to the private interest, Petitioner invokes “the most elemental of liberty interests—the interest in being free from physical detention by one’s own government.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Meanwhile, the government’s interest in detaining Petitioner is limited to ensuring their appearance at their future immigration proceedings (i.e., “flight risk”) and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690. But because Respondents denied

Petitioner a proper bond hearing, “there is nothing in the record demonstrating that [Petitioner] is a flight risk or a danger to the community.” *Lopez Benitez*, 795 F. Supp. 3d at 496. Therefore, the risk of erroneously depriving Petitioner of physical freedom is unbearably high. *See Lopez-Campos*, 2025 WL 2496379, at \*9 (“the risk of erroneously depriving [petitioner] of his freedom is high if the IJ fails to assess his risk of flight and dangerousness.”). Without the bond hearing that he is entitled to under § 1226(a), Petitioner will never be able to present the compelling reasons that he is neither a flight risk nor a danger. *See Pet.* at ¶¶ 25-28, 33-34. Nor can the government complain about the administrative burden of providing hearings that it has provided for decades.

**V. This Court Should Waive Any Prudential Exhaustion Requirement.**

Respondents are likely to ask this Court to require Petitioner to first seek a bond hearing in immigration court, or to appeal their jurisdictional bond denials to the BIA, before seeking habeas relief. But for a habeas corpus petition under § 2241, the exhaustion of administrative remedies is not a statutory or jurisdictional requirement, but rather a prudential matter of this Court’s discretion. *See Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013). In identical petitions, courts around the country—including in this district—have consistently waived exhaustion requirements. *See Lopez-Campos*, 2025 WL 2496379, at \*5; *Pizarro Reyes*, 2025

WL 2609425, at \*4.<sup>7</sup> This Court should exercise its discretion to do the same here.

All four of the primary circumstances when courts waive prudential exhaustion requirements strongly favor waiver here. First, “pursuit of administrative remedies would be a futile gesture,” *Shearson*, 725 F.3d at 594, because the BIA and IJ are bound by *Yajure Hurtado*. Second, the “legal question is fit for resolution and delay means hardship.” *Shalala v. Illinois Council on Long Term Care*, 529 U.S. 1, 13 (2000) (cleaned up). On average, the BIA took over six months to decide bond appeals in 2024, with hundreds of cases taking a year or longer to resolve. *See Rodriguez*, 779 F. Supp. 3d at 1245 (2025). Meanwhile, the legality of Petitioner’s detention is a pure question of statutory interpretation and constitutional due process analysis fit for resolution. If the Court decides this purely legal question now, Petitioner “could be released within a few weeks as compared to the anticipated half-year wait through the BIA appeal route.” *Pizarro Reyes*, 2025 WL 2609425, at \*4.

Third, Petitioner raises “non-frivolous” constitutional questions that cannot be adequately addressed through the administrative process. *Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006). This Court has granted relief on materially identical due process claims, *see, e.g., Lopez-Campos*, 2025 WL 2496379, at \*10, which the “BIA lacks authority to review,” *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir.

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<sup>7</sup> *See also* Pet. at ¶ 48 (citing decisions in identical habeas corpus actions, all of which waived prudential exhaustion requirements if presented with the issue).

2006). Fourth, there is no need for IJs or the BIA to “make a factual record” or “apply [their] expertise” because there are no factual disputes to resolve. *McGee v. United States*, 402 U.S. 479, 484 (1971). Immigration judges have no expertise in statutory interpretation, which is “the proper and peculiar province of the courts,” *Loper Bright Enters.*, 603 U.S. at 385 (cleaned up), or in analyzing constitutional claims, which IJs wholly “lack[] authority to review,” *Sterkaj*, 439 F.3d at 279.

Finally, the need for waiver is amplified in the context of a habeas corpus petition, which demands a “swift” remedy in the face of illegal detention. *Fay v. Noia*, 372 U.S. 391, 400 (1963). *See also* 28 U.S.C. § 2243. Requiring prior administrative exhaustion will serve only to prolong that illegal detention. Indeed, “[w]hen the liberty of a person is at stake, every day that passes is a critical one,” thus necessitating habeas petitions to “be met with a sense of urgency.” *Lopez-Campos*, 2025 WL 2496379, at \*5.

### CONCLUSION

For the foregoing reasons, Petitioner respectfully urges this Court to grant Petitioner’s habeas corpus petition and order Respondents to immediately release him from custody unless he is provided with a constitutionally and statutorily adequate bond hearing within seven (7) days.

Dated: February 2, 2026

Respectfully submitted,  
/s/ Molly Huffaker  
Molly Huffaker, P85612  
*Counsel for Petitioner*

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No: [REDACTED]  
Event No: [REDACTED]  
In the Matter of: [REDACTED]  
Respondent: MANUEL ALEJANDRO AGUILAR-MENDOZA currently residing at:  
[REDACTED]  
[REDACTED]  
(Number, street, city, state and ZIP code) (Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of HONDURAS and a citizen of HONDURAS ;
3. You arrived in the United States at or near UNKNOWN PLACE , on or about unknown date ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

477 MICHIGAN AVE STE 440 DETROIT MI US 48226  
(Complete Address of Immigration Court, including Room Number, if any)

on November 04, 2025 at 09:00 AM to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above. ALEJANDRO MARTINEZ  
Date: 2025.10.16 16:53:04-04:00  
[Signature] Acting/Patrol Agent in Charge  
(Signature and Title of Issuing Officer)

Date: October 16, 2025 MARYSVILLE, MICHIGAN  
(City and State)

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**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at [www.uscis.gov/i-589](http://www.uscis.gov/i-589). Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

**U.S. Citizenship Claims:** If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

**Sensitive locations:** To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Upon information and belief, the language that the alien understands is SPANISH

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on **October 16, 2025**, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

~~\_\_\_\_\_  
(Signature of Respondent if Personally Served)~~

KEVIN A BREWER  
Date: 2025.10.16 17:02:35-04:00  
CBP

**Border Patrol Agent**  
\_\_\_\_\_  
(Signature and Title of officer)

**Privacy Act Statement**

**Authority:**

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

**Purpose:**

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

**Routine Uses:**

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

**Disclosure:**

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.



Alien's Name <b>MANUEL ALEJANDRO AGUILAR-MENDOZA</b>	File Number [REDACTED]	Date <b>October 16, 2025</b>
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ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

=====

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature	KEVIN A BREWER Date: 2025.10.16 13:54 -04:00  	Title <b>Acting/Patrol Agent in Charge</b>
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Alien's Name AGUILAR-MENDOZA, MANUEL ALEJANDRO	File Number [REDACTED]	Date 10/16/2025
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AGUILAR-Mendoza was provided with a List of Pro-Bono Service Providers as per CBP Policy.

AGUILAR-Mendoza states that he is single and has no dependents or children.

DISPOSITION:

AGUILAR-Mendoza was processed as a Notice to Appear/Detained and will be held along with his property and money pending his court date. Due to being a domiciled Alien, he was served with form I-200. Subject will be held at the Marysville Border Patrol Station with his property pending placement with ICE ERO Detroit.

4 of 4  
EOIR

Signature KEVIN A BREWER Date: 2025.10.16 17:04:55 -0400  CBP	Title Border Patrol Agent
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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

**Manuel Alejandro  
AGUILAR MENDOZA,**

**Petitioner,**

**v.**

**Kevin RAYCRAFT, in his official  
capacity as Field Office Director of  
Enforcement and Removal  
Operations, Detroit Field Office,  
Immigration and Customs  
Enforcement; Julie MASSENGILL, in  
her official capacity as Jail  
Administrator of the Monroe County  
Jail; Kristi NOEM, in her official  
capacity as Secretary, U.S.  
Department of Homeland Security;  
U.S. DEPARTMENT OF  
HOMELAND SECURITY; Pamela  
BONDI, in her official capacity as U.S.  
Attorney General; EXECUTIVE  
OFFICE FOR IMMIGRATION  
REVIEW,**

**Respondents.**

**Case No. 2:26-cv-10355**

**Hon. Denise Page Hood**

**INDEX OF EXHIBITS  
FOR BRIEF IN SUPPORT OF  
PETITION FOR WRIT OF HABEAS CORPUS**

**INDEX OF EXHIBITS FOR BRIEF IN SUPPORT OF PETITION FOR  
WRIT OF HABEAS CORPUS**

<b><u>Exhibit</u></b>	<b><u>Title/Description</u></b>
<b>A</b>	Form I-213, Record of Deportable/Inadmissible Alien
<b>B</b>	Form I-200, Warrant for Arrest of Alien
<b>C</b>	Form I-862, Notice to Appear