UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

RICARDO DE LEON TREJO, *Petitioner*,	**Case No.: 3:26-cv-00047**
V.	**Agency Case No.: A**[redacted]
SCOTT LADWIG, Acting Director of the New Orleans Field Office of ICE, in his official capacity; TOM SPANGLER, Sheriff of Knox County, Tennessee, in his official capacity,	**28 U.S.C. § 2241**
Respondents.	**Judge Charles E. Atchley, Jr.**
	DEMAND FOR IMMEDIATE RELEASE AND/OR STAY OF TRANSFER

PETITIONER'S OMNIBUS REPLY IN SUPPORT OF HABEAS PETITION, RESPONSE TO RESPONDENTS' MOTION FOR RELIEF [DOC. 26], AND RENEWED EMERGENCY MOTION FOR CONTEMPT AND IMMEDIATE RELEASE

Petitioner Ricardo De Leon Trejo respectfully submits this Omnibus filing to: (1) Reply to Respondents' Response to the Habeas Petition [Doc. 25]; (2) Respond to Respondents Scott Ladwig and the United States' Renewed Emergency Motion for Relief [Doc. 26]; and (3) Renew the request for an Order to Show Cause and sanctions. In its February 6 Order, this Court was "unwilling to find" bad faith "without additional evidence suggesting malicious intent" [Doc. 21].

Petitioner now provides evidence of such bad faith to the Court. First, Petitioner is a statutorily protected survivor of abuse whom the Department of Homeland Security ("DHS") has already designated as having a credible claim to legal status. *See* Exhibit 1, I-360 USCIS Prima Facie Determination. Second, the record reveals a coordinated effort to "run the clock" on this Court's authority through tactical stalls, misrepresentations, and unprecedented administrative irregularities. Moreover, Petitioner has recently informed his counsel that Petitioner's driver's license and work permit are now missing—abandoned by Respondents Ladwig and the United States in the rush to move Petitioner from the jurisdiction of this Court.

I. THE NOVEMBER 2025 PRIMA FACIE NOTICE: PETITIONER IS ELIGIBLE FOR LAWFUL PERMANENT RESIDENCE

On November 18, 2025, U.S. Citizenship and Immigration Services ("USCIS") issued a Notice of Prima Facie Case regarding Petitioner's I-360 VAWA Self-Petition. Under 8 U.S.C. § 1641(c)(1)(B), this determination officially classifies Petitioner as a "qualified alien." It is legally incoherent for USCIS to designate Petitioner as a "qualified alien" worthy of federal protection while ICE simultaneously detains him in a high-security facility under a "mandatory" framework—in other words, the Government cannot simultaneously protect a victim with one hand and jail them with the other.

II. THE WINDOW OF DECEPTION: THE THREE-HOUR STALL

The timeline of February 5, 2026, supported by ECF timestamps and the Government's own admissions, reveals a sequence of events that defies any "innocent" explanation:

- **2:30 P.M. EST:** This Court enters its Order [Doc. 12] reaffirming its TRO ordering Respondents to maintain Petitioner's presence in the Eastern District of Tennessee.
- **2:54 P.M. EST:** Respondent Ladwig's counsel confirms receipt and states the USAO is "evaluating next steps with our client."
- **3:30–4:00 P.M. EST:** Per Petitioner's account, he is placed on a flight to Louisiana—*after* the Government acknowledged the injunction.
- **4:04 P.M. EST:** Having been in communication with ICE for 70 minutes, Respondent Ladwig's counsel emails: "I am still in communication with our agency contacts, and would ask for more time to get back to you today."

- **4:41 P.M. EST:** The time Respondent Ladwig's counsel admits he knew Petitioner was on a flight to Louisiana.
- **5:21 P.M. EST:** The USAO finally notifies Petitioner's counsel that Petitioner had been put on a flight to Louisiana.

See, generally, Exhibit 2, Emails between Robert McConkey and Aaron Dendy.

The Government requested "more time" at 4:04 PM while the violation was in progress. They then sat on the confirmed knowledge of the violation for another 40 minutes before notifying counsel. This was either tactical or critical incompetence. Whether the AUSA was kept in the dark by his client or not, the result is the same: the Court was misled while a constitutional violation in direct contravention of two consistent Orders by this Court was finalized.

In support of their Renewed Emergency Motion [Doc. 26], Respondents submitted a sworn declaration from an ICE official. Notably, this affidavit—which purports to explain the "logistical necessity" of Petitioner's flight to Louisiana—is **conspicuously silent** as to exactly when ICE officials were notified of this Court's February 5, 2:30 P.M. Order.

The Court is left to consider why a declaration intended to provide "clarity" would omit the single most relevant fact: whether ICE knew they were violating a Federal Injunction at the moment the plane doors closed. This omission is a "loud silence" that reinforces Petitioner's argument that the Government used a "window of silence" to moot this Court's authority.

III. THE JURISDICTIONAL SHELL GAME: THE UNAUTHORIZED ATLANTA VENUE CHANGE

Respondents have not only moved Petitioner's body in violation of the TRO; they have attempted to move his legal existence in violation of their own mandatory procedures. Despite Petitioner being held at Winn (Louisiana), his case was shifted to the Atlanta Immigration Court. Crucially, <u>no Motion to Change Venue was ever filed</u>. Under Board of Immigration Appeals

("BIA") precedent, venue cannot be changed without a motion and a showing of good cause. *See* Exhibit 3, *Matter of M-N-I*, 28 I&N Dec. 803, 805 (BIA 2024) (holding that administrative forms do not constitute a venue request).

> Venue for Immigration Court proceedings lies with the Immigration Court where the charging document is filed by the Department of Homeland Security (DHS). 8 C.F.R. §§ 1003.14(a) & 1003.20(a). Immigration Judges may, upon a proper motion, change venue in those proceedings pursuant to the authority contained in 8 C.F.R. § 1003.20. The standard for granting a motion for COV is "good cause." 8 C.F.R. § 1003.20(b). The regulation provides authority to grant a change of venue only when one of the parties has filed a motion for COV and the other party has been given notice and an opportunity to respond. See 8 C.F.R. § 1003.20(b). Immigration Judges may not *sua sponte* change venue.

Exhibit 4, Operating Policies and Procedures Memorandum 18-01: *Change of Venue*. Here, Respondents have engaged in a clandestine jurisdictional transfer intended to strip this Court of its ability to grant effective relief and, apparently, subject Petitioner to a "rocket docket" in a separate circuit.

IV. NATIONAL RECALCITRANCE: THE ICE 2026 PLAYBOOK

Respondents' actions are part of a documented nationwide pattern of ICE ignoring federal injunctions. Petitioner's treatment by Respondents is part and parcel of a systemic "race to the border" strategy employed by ICE on a nationwide basis: *Juan T.R. v. Noem*, No. 26-cv-00107, D.E. 10 (D. Minn. Jan. 28, 2026) (Schiltz, C.J.): Identifying a staggering 96 violations of court orders in January 2026 alone. The Court found that "ICE has likely violated more court orders in [one month] than some federal agencies have violated in their entire existence." *Id.* at 2-3. In another case, plaintiffs presented over 1000 documented consent decree violations by ICE. *Castañon Nava, et al., v. DHS, et al.*, No. 18-cv-3757, D.E. 281 (N.D. Ill. Feb. 2, 2026).

V. HABEAS MERITS

A. PRUDENTIAL EXHAUSTION IS WAIVED AS A MATTER OF LAW AND FUTILITY.

Respondent argues that sound judicial discretion should require Petitioner to seek a bond from an Immigration Judge (IJ) before filing for habeas relief; however, in the Sixth Circuit, there is no statutory or regulatory requirement that a petitioner exhaust administrative remedies before filing a § 2241 petition. *See Shearson v. Holder*, 725 F.3d 588, 594 (6th Cir. 2013). Whether to require exhaustion is thus within the Court's "sound judicial discretion." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

A court may waive prudential exhaustion if the pursuit of administrative remedies "would be a futile gesture." *Shearson*, 725 F.3d at 594. The Government's position is a study in absurdity: the DOJ (Respondent's counsel) concedes that its own sub-agency (the BIA) is bound by the adverse precedent in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Requiring Petitioner to wait 4 to 6 months in jail for a predetermined BIA denial serves no purpose other than to prolong an illegal detention. "Administrative review by the BIA [is] unlikely to lead the Government to change its position," making exhaustion unnecessary. *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025).

Additionally, the BIA cannot adjudicate the constitutionality of the statutes it administers. Under *Sterkaj v. Gonzales* and *Bangura v. Hansen*, exhaustion is unnecessary for the Due Process claims Petitioner raises here. Consequently, this Court should exercise its discretion to waive exhaustion, especially since deciding between § 1225 and § 1226 is a purely legal question "right in a federal court's wheelhouse." *Hernandez Licona v. Ladwig*, 2:26-cv-02079 (M.D. Tenn. Feb. 6, 2026) at 7.

B. PETITIONER IS NOT "SEEKING ADMISSION" UNDER 8 U.S.C. § 1225.

The merits of this Writ turn on the government's misapplication of 8 U.S.C. § 1225(b)(2)(A). Respondent contends that Petitioner's status as an "applicant for admission" automatically makes him a person "seeking admission." This interpretation fails textual and structural analysis, and sheds light on why Respondents were incentivized to move Petitioner to the Fifth Circuit's jurisdiction in violation of this Court's Order to keep Petitioner in the Eastern District of Tennessee.

1. Action vs. Status: The Linguistic Reality.

Under 8 U.S.C. § 1225(a)(1), "applicant for admission" is a status defined by mere presence without admission. By contrast, "seeking admission" is an affirmative, present-tense action. Section 1225 applies to those "actively crossing the border," not residents with continuous presence. *Hernandez Licona*, 2:26-cv-02079 at 11. Petitioner was apprehended in Knoxville, hundreds of miles from the border, after living in the interior for years. As another district court within the Sixth Circuit recently held in *Rios Pena v. Ladwig*, No. 25-3082, 2025 WL 3679766 (W.D. Tenn. Dec. 18, 2025), "you can't go into a place where you already are." Petitioner is not "seeking" an entry he has already accomplished; his detention is therefore governed by the discretionary framework of 8 U.S.C. § 1226(a).

Indeed, the Western District of Tennessee has faced this argument repeatedly in recent times, and has consistently reached this conclusion. *See Morales v. Harper*, No. 2:26-cv-02035 (W.D. Tenn. Feb. 6, 2026) (citing *Rios Pena*, 2025 WL 3679766, at *7; *Padilla-Ugsha v. Ladwig*, No. 25-3045, 2025 WL 3638007, at *7 (W.D. Tenn. Dec. 15, 2025); *Monge-Nunez v. Ladwig*, No. 25-3043, 2025 WL 3565348, at *6; *Cordova v. Ladwig*, No. 25-3037, 2025 WL 3679764, at *7 (W.D. Tenn. Dec. 18, 2025); *Moreno-Espinoza v. Ladwig*, No. 25-3093, 2025 WL 3691452, at *9 (W.D. Tenn. Dec. 19, 2025); *Urrutia-Diaz v. Ladwig*, No. 25-3098, 2025 WL 3689158, at *7 (W.D. Tenn. Dec. 19, 2025)). As another district court observed:

> By a recent count, the central issue in this case – the administration's new position that all noncitizens who came into the United States illegally, but since have been

> living in the United States, must be detained until their removal proceedings are completed – has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States. Thus, the overwhelming, lopsided majority have held that the law still means what it always has meant.

Barco Mercado v. Francis, -- F. Supp. 3d --, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (footnotes omitted) (collecting cases). Thus, Respondents' reliance on the outlying Fifth Circuit opinion in *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), as "persuasive authority" [Doc. 25 at 6] is illustrative of the rationale behind Respondents efforts to move Petitioner to the Fifth Circuit in violation of this Court's Orders: forum-shopping by moving Petitioner to a jurisdiction that goes against "the lopsided majority."

2. The Canon Against Surplusage and the Laken Riley Act.

Respondent's theory violates the canon against surplusage. If "applicant for admission" and "seeking admission" were identical, the disjunctive phrasing in 8 U.S.C. § 1225(a)(3)—"applicants for admission or otherwise seeking admission"—would be redundant. Furthermore, the Laken Riley Act (2025) amended 8 U.S.C. § 1226(c) to target <u>specific</u> <u>interior</u> *entries without inspection* ("EWIs") for mandatory detention. If § 1225 already mandated detention for all EWIs, the Laken Riley Act's specific criminal subsets would be entirely superfluous.

3. Rebutting Respondents' Reliance on *Buenrosto-Mendez v. Bondi*

Respondents' reliance on the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), as "persuasive authority" [Doc. 25 at 6] is misplaced. As noted above, more than 350 out of 362 district courts presented with this argument concluded otherwise, including Sixth Circuit-based district courts. *Barco Mercado*, 2025 WL 3295903, at *4. *Buenrostro-Mendez* rests on a flawed linguistic conflation that contradicts the plain text of the

Immigration and Nationality Act ("INA") and renders recent Congressional enactments, specifically the Laken Riley Act, entirely superfluous.

a) The Conflation of "Status" vs. "Action"

The Fifth Circuit's central error, and the error Respondents ask this Court to adopt, is the claim that being an "applicant for admission" (a statutory status) is equivalent to "seeking admission" (a present-tense action). Under 8 U.S.C. § 1225(a)(1), "applicant for admission" is a status defined by physical presence. However, 8 U.S.C. § 1225(b)(2)(A) limits mandatory detention only to those applicants who are "seeking admission." As this Court and others in this Circuit have recognized, "seeking admission" is an affirmative, present-tense action. An interior resident who was apprehended miles from the border and years after entry is an "applicant for admission" by status, but they are not currently "seeking" it.

If Congress intended for *all* applicants to be mandatorily detained, it would have used the status-based term "applicant" in § 1225(b)(2)(A). By choosing the action-based phrase "seeking admission," Congress created a subset. The Fifth Circuit's interpretation ignores the canon of statutory construction that "when Congress includes particular language in one section of a statute but omits it in another... it is generally presumed that Congress acts intentionally." *See Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 452 (2002).

b) Persuasive vs. Binding Authority

While the Fifth Circuit has chosen to adopt the Government's "novel and unheralded" expansion of mandatory detention, that decision is not binding on this Court. In the Sixth Circuit, the "constitutional avoidance" canon remains a pillar of detention jurisprudence. *See Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003). To adopt the *Buenrostro-Mendez* view would be to endorse a system of indefinite, unreviewable executive detention for millions of interior residents, a result that raises the very "serious constitutional concerns" that the Sixth Circuit has long sought to avoid.

4. Zero Deference Under Loper Bright.

Following *Loper Bright Enterprises v. Raimondo* (2024), this Court owes zero deference to the BIA's erroneous statutory expansion in *Yajure Hurtado*. The "best reading" of the statute, supported by thirty years of contemporaneous executive practice, is that § 1225 applies at the "Nation's doorstep," while § 1226(a) is the default for interior residents.

C. DUE PROCESS PROTECTS PETITIONER FROM CATEGORICAL DETENTION.

Respondent relies on the "entry fiction" and *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) to argue that Petitioner has no Due Process rights. This is a misstatement of law. *Thuraissigiam* addressed an individual apprehended only 25 yards from the border. Petitioner, an interior resident with a "foothold" in the United States, is a "person" protected by the Fifth Amendment. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), the government cannot deprive an interior resident of liberty without an individualized hearing on danger and flight risk. Mandatory, hearing-free detention based solely on the manner of entry lacks a rational basis and violates substantive and procedural Due Process.

VI. THE "NO FACILITIES" EXCUSE AND THE REMEDY OF RELEASE

In Doc. 26, Respondents claim they have "no alternative but to release" Petitioner if forced to return him to this District. Petitioner agrees. Release is the only remedy that addresses the unlawful deprivation of liberty caused by the Government's bad-faith transfer. When the Executive claims it is "administratively incapable" of complying with a court order in a way that preserves a petitioner's rights, the law provides a clear solution: **release.**

Respondents concede that this Court maintains jurisdiction over this matter [Doc. 26 at 2]. However, they ask the Court to lift the TRO and sanction Petitioner's continued detention in Louisiana solely because they lack a "contract" to house him in the Eastern District of Tennessee. This argument improperly elevates administrative convenience over Petitioner's Due Process rights and the Court's finding of irreparable harm.

The Government's own filing proves that their "no facilities" argument is a strategic choice, not a legal dead end. Respondents state: "ICE will have no alternative but to release Petitioner upon his return to EDTN." [Doc. 26 at 3]. By their own hand, Respondents have provided the Court with the solution to their logistical dilemma. If the Government cannot house Petitioner in Knoxville without violating the TRO, and they have the authority to release him to ensure compliance, the Court should hold them to that alternative. "Administrative convenience" is not a defense to contempt; it is merely an explanation for a lack of will.

VII. REBUTTING RESPONDENT SPANGLER'S OBJECTIONS AND HABEAS RESPONSE

Respondent Spangler seeks to be excused from these proceedings by claiming he relinquished physical custody of Petitioner at 8:33 A.M. on February 4, 2026—approximately three hours before the Court's TRO was officially entered. This "empty chair" defense fails both as a matter of habeas procedure and under the Court's inherent power to enforce its mandates.

A. Respondent Spangler is a Proper Habeas Respondent

The Sixth Circuit has affirmed that the "immediate custodian" at the time of the petition's filing is the proper respondent. *See Roman v. Ashcroft*, 340 F.3d 314, 319 (6th Cir. 2003). Petitioner was in the physical custody of Respondent Spangler at the Knox County Jail when this action was commenced on February 2, 2026. Under the "Endo Doctrine," Respondent Spangler's subsequent transfer of Petitioner does not strip this Court of jurisdiction or excuse Spangler from the litigation. *See Ex parte Endo*, 323 U.S. 283, 306 (1944).

B. Contempt and the Duty to Mitigate the Transfer

While Respondent Spangler claims he lacked notice of the TRO at the exact moment of the 8:33 A.M. transfer, he admits he received actual notice by 12:10 P.M. that same day. Despite this notice, and the Court's subsequent denial of Respondent Ladwig's motion for relief, Spangler took no steps to coordinate with his federal partners to halt the out-of-district transport that was then in progress. A respondent who facilitates the removal of a petitioner while a known emergency motion is pending—and who fails to act once a TRO is entered—remains subject to the Court's remedial authority. Respondent Spangler's deputies, acting under the 287(g) Agreement, are not "passive hosts" but are designated federal agents of the arrest itself.

C. The Inability to Provide Relief is Self-Imposed

Respondent Spangler's assertion that he "cannot provide the relief the petitioner seeks" is a direct result of his own decision to relinquish custody in the face of active litigation. This Court has the authority to hold all Respondents—including local jailers—accountable for their role in a coordinated effort to secure a summary removal order before this Court can meaningfully adjudicate the legality of Petitioner's detention.

VIII. CONCLUSION AND REQUESTED RELIEF

The Government moves with surgical celerity to violate an order and with strategic lethargy to comply. Petitioner's driver's license and work permit remain missing—abandoned in the rush to beat the Court's clock and transfer Petitioner to a jurisdiction less adverse to Respondents' otherwise repeatedly refuted position. Petitioner respectfully requests the Court:

1. **Grant** the Renewed Motion for Order to Show Cause;
2. **Order** that if Petitioner is not physically present in this District by **5:00 P.M. on Tuesday, February 10, 2026**, he shall be **IMMEDIATELY RELEASED** on recognizance;
3. **Stay and Enjoin** any administrative proceedings in the Atlanta Immigration Court, as that venue was established in violation of *Matter of M-N-I.*

Respectfully submitted, this February 10, 2026.

/ s / Aaron Dendy, Esq.
Aaron Dendy, Attorney at Law
DENDY LAW, PLLC
1033 Demonbreun St., Ste. 300
Nashville, TN 37203
(615) 997-0006
aaron@dendy.law
TN BPR# 34210

/ s / Seamus Kelly, Esq.
Seamus Kelly, TN BPR# 32202
David Goldman, TN BPR# 35151
MUSIC CITY LAW, PLLC
1033 Demonbreun St., Ste. 300
Nashville, TN 37203
(615) 200-0682
seamus@musiccityfirm.com
david@musiccityfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2026, a copy of the foregoing was filed electronically via ECF and as such, a copy will be served upon Respondents' counsel.

Respectfully submitted, this February 10, 2026

/ s / Seamus Kelly, Esq.
Seamus Kelly