UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

JAIR SERRANO PARRA,

Petitioner,

v.

Kevin RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Angela DUNBAR, in her official capacity as Warden of the North Lake Processing Center; 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. 26-cv-00569

Hon. Paul L. Maloney
U.S. District Court Judge

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

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I. INTRODUCTION

This case presents a straightforward question: whether a long-time resident may be subjected to mandatory detention without a bond hearing under a border-inspection statute that does not apply to him. The answer under the INA, constitutional due process, and persuasive federal authority is no.

II. ARGUMENT

A. There are Multiple Proper Respondents.

The parties agree that the ICE Field Office Director is Petitioner's immediate custodian and therefore a proper respondent. *Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Courts in this District and the Western District of Michigan have declined to dismiss higher-level DHS or ICE officials where their inclusion is necessary to ensure effective relief following a transfer[1].

B. Petitioner's Detention Does Violate the Due Process Clause.

Respondents do not identify any special justification for detaining Petitioner without a bond hearing. Nor weigh the factors of *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976). Nor identify a single case where courts have found it constitutional to deprive long-time residents of their liberty without any consideration of flight risk, dangerousness, or criminal history. Rather, Respondents argue that because

[1] *Antele Cobix v. Raycraft,* No. 25-cv-1669, 2025 WL 3562651, at pp. 8-9 (WD MI, December, 12, 2025); *Acuna Sanchez v. Noem,* No 25-cv-1442, 2025 WL 3562577, pp. 9-10 (WD MI, December 12, 2025).

procedural protections exist in *removal* proceedings (i.e., hearings on immigration relief), Petitioner has no right to due process on *detention*. But Petitioner has a liberty interest in freedom from detention that is distinct from their liberty interest in remaining in the U.S. Deprivation of either requires due process.

Respondents also point to inapposite cases concerning the more limited due process protections for people apprehended upon entry or with significant criminal history. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), concerned the "due process rights of an alien seeking initial entry" and governmental control over who crosses our borders. *Id.* at 107; *see id.* at 139 (discussing the due process rights of "an alien at the threshold of initial entry" who lack "established connections in this country"). Petitioner is not "at the threshold of initial entry," and has "established connections" here. *See Cordero Pelico*, 2025 WL 2822876, at *6 (distinguishing government's cases on exactly this basis).

Respondents' reliance on *Demore v. Kim*, 538 U.S. 510 (2003), is similarly off base. *Demore* rejected a facial challenge to 8 U.S.C. § 1226(c), which requires mandatory detention of certain noncitizens with criminal convictions. Based on the presumption that such people are a danger/flight risk, the Court found the government's interest in detaining them for "a very limited time" outweighed their interest in liberty. *Demore*, 538 U.S. at 529, n.12. *Demore* does not create an irrebuttable presumption of dangerousness/flight risk even for people with

significant criminal history[2], much less for people who - as here - have been living law-abiding lives in the community. And *Zadvydas v. Davis*, 533 U.S. 678 (2001), contrary to Respondents' depiction, emphasizes that immigration detention must be tied to the civil purposes of preventing flight and protecting the public. *Zadvydas* held that even where noncitizens (unlike here) had already been ordered removed (such that the government had specific interests around accomplishing removal), there were "serious constitutional problem[s]" with reading the INA to allow for prolonged detention. *Id.* In short, Respondents' cited cases do not support their claim. *Id.*, at 690. Because Respondents identify no individualized justification for detention and no statutory provision authorizing mandatory custody, continued detention without a bond hearing violates the Fifth Amendment.

C. Administrative Exhaustion

Exhaustion requirements not contained in the statute are prudential, not jurisdictional. *Perkovic v. INS*, 33 F.3d 615, 619 (6th Cir. 1994). Prudential exhaustion is applied case by case, considering agency expertise, potential disruption of the administrative process, and whether the agency is likely to correct the alleged error. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019).

[2] Noncitizens detained under § 1226(c) remain free to bring as-applied constitutional challenges to their detention. *See Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *Black v. Decker*, 103 F.4th 133, 151-155 (2d Cir. 2024).

Alternatively, even where a court might ordinarily apply prudential exhaustion, the court retains discretion to waive exhaustion requirements. See *Lopez-Campos*, No. 25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025). Waiver is appropriate where the issues presented are purely legal and therefore "fit" for judicial resolution and where requiring further administrative proceedings would impose hardship through unnecessary delay. *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000). Courts likewise excuse exhaustion when pursuing administrative remedies would be futile or incapable of providing meaningful relief. Under these circumstances, waiver of prudential exhaustion is warranted and the Court may properly reach the merits of the petition. Requiring exhaustion here would elevate form over substance and prolong unlawful detention.

D. Section §1226(a), not §1225(b)(2)(A), Applies to Petitioner.

Even standing alone, §1225(b)(2) does not support Respondents' reading. The provision governs inspections conducted by an "examining immigration officer," a process that has no application to Petitioner, who seeks relief before an immigration judge. Respondents' reliance on the phrase "seeking admission" overlooks that "admission" is defined as lawful entry after inspection, 8 U.S.C. §1101(a)(13)(A); extending §1225(b)(2) to individuals long residing in the United States would effectively erase the statutory concept of "entry." *Chafla v. Scott*, 2025 WL 2688541 (D. Me. Sept. 22, 2025).

Nor does seeking relief to remain in the country transform Petitioner into someone seeking entry. Petitioner is not asking an immigration officer for permission to enter, but instead seeks cancellation of removal before an immigration judge – a form of relief that modifies legal status, not physical admission into a country where he is already present.

In summary, §1225(b)(2) is a border-inspection provision that presumes an ongoing inspection and potential entry determination by an immigration officer. Petitioner's circumstances - long-term residence in the United States and pursuit of relief before an immigration judge - fit squarely outside that framework. Respondents' reading would distort statutory definitions, disregard procedural posture, and expand §1225(b)(2) far beyond its text and purpose. In essence, Respondents seek to apply a border-inspection statute far beyond its intended scope, transforming it into a nationwide mandatory detention scheme unrelated to inspection or entry at the border.

Even read in isolation, § 1225(b)(2) does not support Respondents' interpretation. The statute requires a determination by an "examining immigration officer," a requirement Respondents ignore while focusing solely on whether Petitioner is an "applicant for admission" who is "seeking admission." Yet "admission" means the lawful entry of a noncitizen after inspection and authorization by an immigration officer—bringing the analysis back to the inspection process itself. Applying § 1225(b)(2) to noncitizens already residing in

the United States would effectively read the word "entry" out of the statutory definition. *Chafla v. Scott*, No. 25-cv-00437, 2025 WL 2688541, at *6 (D. Me. Sept. 22, 2025).

Respondents improperly equate "seeking admission" with seeking immigration relief. Petitioner is not seeking entry, but relief before an immigration judge that adjusts legal status, not admission into the United States.

E. *Maldonado Bautista v. Santa Cruz*

Respondents' attempt to minimize *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal.), is misplaced. Petitioner does not rely on *Bautista* for preclusive effect or nationwide habeas relief, but cites it as persuasive authority interpreting the same detention statutes at issue here. Nothing in habeas jurisprudence prevents this Court from considering persuasive decisions from other districts.

Nor does the pending appeal diminish *Bautista's* relevance. While an appealed judgment may lack preclusive effect, courts routinely consider such decisions as persuasive authority. *Bautista* reflects a consistent interpretation that individuals not apprehended at the border and not detained under §§ 1225(b)(1), 1226(c), or 1231 are governed by § 1226(a) and entitled to individualized bond hearings.

Respondents' reliance on *Matter of Yajure Hurtado* is likewise untenable. Although EOIR issued nationwide guidance on January 13, 2026 treating that

decision as binding, the United States District Court for the Central District of California subsequently vacated the Board's decision on February 18, 2026. A vacated administrative decision carries no precedential force, and agency guidance cannot override a federal court's interpretation of the detention statutes.

Mandatory detention under 8 U.S.C. § 1225(b)(2)(A) applies only to individuals properly treated as applicants for admission at the time of inspection. Courts have repeatedly rejected the government's theory that individuals who entered without inspection remain perpetual applicants for admission. Noncitizens who were not apprehended upon arrival and who are not detained under §§ 1225(b)(1), 1226(c), or 1231 fall within § 1226(a), which guarantees individualized custody determinations.

Because Petitioner falls within this category, continued detention without a bond hearing violates both the INA and the Fifth Amendment. The Court should therefore order an immediate § 1226(a) bond hearing.

III. CONCLUSION

Petitioner requests that the Court grant the relief requested in the Petition.

Respectfully submitted,

/s/ Sufen Hilf

Date: March 2, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all parties of record.

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