

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KAREN MARIELA AGUAYO MONTES,	)	CASE NO.: 1:26-CV-919
	)	
Petitioner,	)	JUDGE SOLOMON OLIVER JR
	)	
	)	MAGISTRATE JUDGE
v.	)	JENNIFER DOWDELL
SCOTT A. HILDENBRAND, et al.,	)	ARMSTRONG
	)	
	)	
Respondents	)	
	)	

**PETITIONER'S TRAVERSE TO FEDERAL RESPONDENTS' ANSWER AND
RETURN OF WRIT**

I. Introduction

Petitioner Karen Mariela Aguayo Montes, by and through undersigned counsel, respectfully submits this Reply to Federal Respondents' Answer and Return of Writ. Federal Respondents ask this Court to dismiss the Petition by arguing that this case is a challenge to removal, by stating that Petitioner has not exhausted remedies, and by treating Petitioner as ineligible for a bond hearing under 8 U.S.C. § 1225(b), and by arguing that Petitioner's Due Process rights have not been violated. Those arguments should be rejected.

This case is not about whether Petitioner is removable or whether she is entitled to immigration relief—that is what immigration court and the BIA are for. It is about whether the government may continue to detain her for nearly eight months without any bond hearing.

Petitioner entered the United States as a young child, has lived in Ohio for most of her life, has a United States citizen child born only months before her arrest, has no criminal record, and was taken into ICE custody after a state criminal case that was dismissed at the State's cost.

Yet no immigration judge has determined whether she is a danger or whether she is a flight risk. Federal Respondents' position would leave Petitioner detained without bond based solely on an erroneous custody classification, despite her long residence, family ties, dismissed criminal case, and ongoing separation from her infant child.

Section 1252(b)(9) does not limit review because Petitioner challenges detention—not removal. Exhaustion does not warrant dismissal here because the BIA has already taken the position that no bond jurisdiction exists, making further administrative review in vain and inadequate. On the merits, Petitioner is detained under 8 U.S.C. § 1226(a), not § 1225(b).

At minimum, continued detention without redetermination violates the Fifth Amendment. For these reasons, the Court should reject Federal Respondents' arguments, grant the Petition, and order Federal Respondents to provide Petitioner with a bond hearing before an Immigration Judge, with the government bearing the burden of justifying continued detention by clear and convincing evidence.

II. Section 1252(b)(9) Does Not Preclude Jurisdiction Because Petitioner Challenges Detention, Not Removal.

Federal Respondents argue that this Court lacks jurisdiction because Petitioner's claims are allegedly barred by 8 U.S.C. § 1252(b)(9). The statute states:

Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision

of law (statutory or nonstatutory), to review such an order or such questions of law or fact.
8 U.S.C. § 1252(b)(9). Respondents' jurisdictional argument fails because Petitioner is not asking this Court to review her removal proceedings or any order of removal. She challenges only her continued civil detention and the denial of a custody hearing. Section 1252(b)(9) does not strip this Court of habeas jurisdiction over a detention issue.

A plain reading of § 1252(b)(9) does not bar every habeas claim filed by a person who happens to be in removal proceedings. The relevant question is whether Petitioner's claim challenges the removal process itself or instead challenges a custody issue. Here, the issue is detention without bond—a custody issue—not the merits of her removal proceedings.

The Supreme Court has cautioned against reading § 1252(b)(9) so broadly that it ends detention-based habeas claims.

In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Court rejected the government's view that detention challenges automatically "arise from" removal proceedings merely because the detention occurs during those proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018). Petitioner's claim fits within that distinction. She does not ask this Court to decide whether she is entitled to relief from removal, or whether the immigration court correctly ruled her immigration case. She asks only that this Court review her continued detention and order a bond hearing because her detention has become unconstitutionally prolonged in violation of the Fifth Amendment.

a. District Courts Within the Sixth Circuit Have Applied the Same Distinction.

District courts within this Circuit have applied *Jennings v. Rodriguez*, 583 U.S. 281 (2018) to reject the same jurisdictional argument Respondents raise here. In *Bartolon v. Bondi*, the petitioner filed a § 2241 habeas petition challenging his detention without a bond hearing.

The government argued that the INA's jurisdiction-channeling provisions deprived the district court of jurisdiction because the petitioner's detention existed in connection with removal proceedings. The issue before the court was therefore whether § 1252(b)(9) barred habeas review of a detention-based claim where the petitioner was not seeking review of removability or a final removal order. The Southern District of Ohio held that it did not. The court reasoned that *Jennings v. Rodriguez* rejected an expansive reading of § 1252(b)(9), and that a claim contesting detention under the mandatory-detention statute and seeking a bond hearing is collateral to removal proceedings. Because the petitioner's claims "squarely contest[ed] his detention under 8 U.S.C. § 1225 and whether he [was] entitled to a bond hearing," the court concluded that § 1252(b)(9) was "no bar" to jurisdiction. *Bartolon v. Bondi*, 813 F. Supp. 3d 811, 823–27 (S.D. Ohio 2025). The same is true here: Petitioner contests custody, not removal.

Lopez v. Noem, No. 3:26-cv-00128, 2026 WL 395202, (N.D. Ohio Mar. 2, 2026) is even more directly linked here because it is a Northern District of Ohio habeas case involving the same basic jurisdictional theory. In *Lopez v. Noem*, the petitioner sought habeas relief on the ground that her continued detention without a bond hearing violated the INA and the Fifth Amendment. The government moved to dismiss, arguing that § 1252(g) and § 1252(b)(9) stripped the district court of jurisdiction. The issue before the court was whether a detention-based habeas claim—seeking release or a bond hearing, not review of a removal order—was barred by § 1252(b)(9).

The court rejected the government's argument. It held that § 1252(b)(9) targets claims arising from removal-related actions, but that the government's interpretation was too expansive, unsupported by the statute's plain language, and inconsistent with *Jennings*. *Lopez v. Noem*, No. 3:26-cv-00128, 2026 WL 395202, at *2–4 (N.D. Ohio Mar. 2, 2026). "Although detention

incident to removal proceedings may have an obvious connection to removal,” the court wrote, “it does not necessarily follow that every legal claim stemming from detention stems from a removal-related action.” *Id.* The court concluded that because the petitioner challenged the constitutionality of her continued detention without a bond hearing, § 1252(b)(9) did not divest the district court of subject-matter jurisdiction. *Id.*

Like the petitioners in *Bartolon v. Bondi* and *Lopez v. Noem*, Petitioner does not ask this Court to review a removal order, decide removability, or adjudicate immigration relief. She challenges only custody. The Court can decide whether Respondents must provide a bond hearing without deciding any issue reserved for review of a final removal order. Section 1252(b)(9) therefore does not preclude this Court’s jurisdiction.

III. Exhaustion In This Case Does Not Warrant Dismissal.

Federal Respondents argue that the Petition should be dismissed because Petitioner did not exhaust administrative remedies by appealing the Immigration Judge’s custody ruling to the BIA. That argument fails.

Exhaustion should not be applied where the BIA has already taken a position. The BIA has already taken a position. Petitioner challenges that she is barred from a bond hearing. She also raises a constitutional claim that prolonged detention without review violates the Fifth Amendment. Those issues are proper for habeas, and requiring additional review with the BIA would not advance the case.

a. Exhaustion May Be Excused Where It Would Be Futile, Inadequate, or Cause Hardship.

Courts in this District have repeatedly recognized that exhaustion in immigration detention habeas cases may be waived when the purposes of exhaustion would not be proper.

The relevant question is not whether an administrative appeal with the BIA exists, but whether requiring it would assist this Court and provide relief—or whether it would merely prolong detention.

In *Singh v. Stevens*, No. 3:26-CV-133, 2026 WL 456489, (N.D. Ohio Feb. 18, 2026), the Northern District of Ohio addressed a habeas petition filed by an Indian national who entered the United States as a teenager and was detained years later without a bond hearing. The government argued that Singh should have exhausted administrative remedies before seeking habeas relief. The issue before the court was whether prudential exhaustion should bar review where the petitioner challenged the government’s position that he was subject to mandatory detention and therefore ineligible for bond. The court waived exhaustion, “because Petitioner’s habeas petition includes, inter alia, a due process claim, the administrative scheme (i.e. appeal to the Board of Immigration Appeals (“BIA”)) is likely futile. Finally, administrative review is not likely to change Respondents’ position that § 1225(b)(2)(A) applies in this case”.. *Singh v. Stevens*, No. 3:26-CV-133, 2026 WL 456489, at *4 (N.D. Ohio Feb. 18, 2026). The court also recognized that exhaustion may be waived when the individual’s interests weigh heavily against delay, when exhaustion would be futile or unable to provide the relief sought, or when delay itself means hardship. *Id.*

That reasoning in *Singh v. Stevens* applies here. Petitioner is not asking the BIA to reweigh her bond’s record. There is no bond record because the Immigration Judge refused to exercise jurisdiction. The same agency position Federal Respondents rely on here—that Petitioner is subject to mandatory detention and not entitled to bond—would control the administrative appeal. Requiring exhaustion under those circumstances would not develop the

factual record or allow the agency to apply discretion. It would simply delay review of the same legal and constitutional question while Petitioner remains detained.

Hu v. Raycraft No. 4:26-cv-113, 2026 WL 539117, (N.D. Ohio Feb. 26, 2026) is also directly instructive. There, the Northern District of Ohio excused exhaustion where the Board had already determined, through *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) that petitioners in the same posture were not eligible for bond hearings. The court reasoned that exhaustion would be futile because the petitioner would be required to appeal to the very agency that had already announced the rule foreclosing relief. *Hu v. Raycraft*, No. 4:26-cv-113, 2026 WL 539117, at *4–5 (N.D. Ohio Feb. 26, 2026). This is the same in this case. The court described such a requirement as a futile gesture where the agency’s position had already been predetermined. *Id.*

Finally, *Leiva Lemus v. Lynch*, No. 4:26-cv-203, 2026 WL 496731, at (N.D. Ohio Feb. 23, 2026) reinforces this point. In *Leiva Lemus v. Lynch*, the petitioner challenged prolonged detention without bond, and the government argued that he should first exhaust administrative remedies. The court waived exhaustion based on futility and hardship, explaining that requiring an administrative appeal would not promote judicial efficiency or protect administrative authority because it would only delay resolution of the legal questions presented. *Leiva Lemus v. Lynch*, No. 4:26-cv-203, 2026 WL 496731, at *6–8 (N.D. Ohio Feb. 23, 2026). The court emphasized that avoiding months of allegedly unlawful detention outweighed any marginal interest the BIA might have in first resolving the custody appeal. *Id.*

Once the agency’s position is that no bond jurisdiction exists at all, an administrative appeal is not an adequate substitute for habeas review of the legality of detention.

b. Requiring Exhaustion Would Only Prolong Petitioner's Hardship Without Providing Meaningful Relief.

Petitioner has been detained since September 3, 2025. She entered the United States as a young child, and only knows this country. She has lived in Ohio for most of her life, attended middle school and high school in Ohio, and has one United States citizen child who was born only months before her arrest. She has no criminal conviction, has substantial family ties, and the underlying state criminal case that led to ICE custody was dismissed at the State's cost.

Petitioner was breastfeeding her United States citizen child at the time she was arrested. After her arrest, her breasts became hardened and ached as she was forced to stop. Her child has since been moved between caretakers because the child's father is also detained. This was nearly 8 months ago.

ICE has ignored alternatives to detention. Each additional month of administrative delay extends the very injury Petitioner asks this Court to remedy. That hardship matters to the analysis. Courts waive prudential exhaustion where delay would cause hardship, and detention is time-sensitive. *Singh v. Stevens* at 4. A predictable administrative ruling cannot restore what Petitioner loses each day she remains jailed. EOIR has already refused to provide a bond hearing based on lack of jurisdiction. The Court does not need the BIA to determine whether Petitioner is a danger or a flight risk because no determination has ever been made. The question is whether Petitioner can have a hearing in the first place. Federal Respondents' exhaustion argument also fails because the BIA cannot provide relief on Petitioner's constitutional claim. Prolonged detention without redetermination violates the Fifth Amendment. The BIA can address custody classification, but it cannot adjudicate the constitutionality of detention or provide the same habeas remedy available under 28 U.S.C. § 2241. That limitation supports excusing exhaustion.

Accordingly, exhaustion does not warrant dismissal. As in *Singh*, *Hu*, and *Lemus*, further administrative review would not meaningfully assist this Court or provide Petitioner with an adequate remedy. It would only prolong the same detention Petitioner challenges as unlawful. Because exhaustion is prudential, futile, inadequate, and would cause continued hardship, the Court should reject Respondents' exhaustion defense and reach the merits.

IV. Petitioner Is Detained Under § 1226(a), Not § 1225(b)

Federal Respondents' mandatory detention claim treats Petitioner as an applicant for admission subject to 8 U.S.C. § 1225(b)(2)(A). That reading of the statute is incorrect.

Petitioner is not an arriving alien at a port of entry. She was not apprehended while trying to enter the United States of America. She was arrested in Ohio, after living in the US for most of her life. She is detained while ordinary removal proceedings remain pending. Therefore, her custody falls under 8 U.S.C. § 1226(a), not § 1225(b).

a. Section 1226(a) Governs Interior Detention Pending Removal Proceedings. Section 1225(b)(2)(A) Does Not Apply to Petitioner Who Is Not Seeking Admission at the Border.

Section 1226(a) applies to the arrest and detention of a noncitizen "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). That is the Petitioner. She is detained while the government seeks to remove her. Section 1226(a) authorizes detention, release on bond, or conditional parole during the pendency of removal proceedings. Section 1225(b), by contrast, appears in the statute governing inspection, admission, expedited removal, and referral for further proceedings. Respondents' reading extends that inspection and admission portion far beyond.

Under this theory, any person who entered without inspection remains subject to mandatory detention under § 1225(b), regardless of how long she has lived in the United States,

whether she was arrested inside the US, whether she has a United States citizen child, whether she has any criminal convictions, and whether she is actually seeking admission at the border.

The fact that § 1225(a)(1) defines certain noncitizens as “applicants for admission” does not automatically answer the custody question.

The question is whether § 1225(b)(2)(A)’s mandatory-detention provision governs her present custody. It does not. Petitioner’s facts fit § 1226(a). She entered the United States as a young child, has lived in Ohio for most of her life, attended middle school and high school here, has one United States citizen child born only months before her arrest, has no criminal conviction, has substantial family ties, and the state criminal case that led to ICE custody was dismissed at the State’s cost. These are the facts of a long-term resident detained during removal proceedings, not an arriving alien seeking admission.

Recent district court decisions within this Circuit have rejected Respondents’ broad application of § 1225(b) to similarly situated Petitioners. In *Rodriguez v. Woosley*, No. 4:25-CV-168-RGJ, 2026 WL 36345 (W.D. Ky. Jan. 6, 2026) the petitioner had been present in the United States for at least two years when the government attempted to classify them as subject to mandatory detention.

The issue was whether a respondent inside the United States fit within the categories governed by § 1225(b). The court held that they did not fit within either category to which mandatory detention and expedited removal applied. *Rodriguez* therefore rejects the use § 1225(b) as a mandatory-detention provision for an interior Petitioner. *Rodriguez v. Woosley*, No. 4:25-CV-168-RGJ, 2026 WL 36345 (W.D. Ky. Jan. 6, 2026).

Similarly, in *Lopez v. Olson*, 815 F. Supp. 3d 576 (W.D. Ky. 2025), the petitioner had entered the United States without interaction with immigration and had lived in the country for

nearly a decade. The government—just as in this case—argued that because he entered without inspection, he was an “applicant for admission” subject to mandatory detention under § 1225(b).

The court rejected that position and concluded that the petitioner was not an “applicant seeking admission” subject to mandatory detention. *Lopez v. Olson* recognized the difference between a person actually seeking admission at the border and a long-term interior resident arrested years after entry:

“Likewise, Lopez entered the United States without interaction with immigration authorities and has resided in the country for nearly a decade. (D.N. 1, PageID.6 ¶ 23) She is thus an applicant for admission but is not seeking admission.⁵ See *Alonso*, 2025 WL 3083920, at *5–7; see also *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 808 F.Supp.3d 474, 487 (E.D.N.Y. Oct. 6, 2025) (concluding that noncitizens “seeking admission” are “those who are presenting themselves at the border, or who were recently apprehended just after entering”).

Lopez v. Olson, 815 F. Supp. 3d 576, 581-582 (W.D. Ky. 2025). These cases—just as Federal Respondents’ reliance on the Fifth and Eighth Circuit jurisprudence—are persuasive here. Like the petitioners in *Rodriguez* and *Lopez*, Petitioner was not detained in the inspection process and was not seeking admission at a port of entry. She was arrested inside the US after spending most of her life here. Federal Respondents’ attempt to convert § 1225(b) into a mandatory-detention rule for anyone who ever entered without inspection.

Jennings does not compel that result. *Jennings* did not decide the question presented here: whether § 1225(b) or § 1226(a) governs a long-term interior resident who entered without inspection and was later arrested inside the United States. Federal Respondents cannot use *Jennings* to avoid the statutory question of which detention provision applies. Federal Respondents’ reading also creates constitutional concerns. If accepted, Petitioner’s childhood entry without inspection would permanently deprive her of any bond hearing, even though she

has lived here most of her life, has a United States citizen child, has no criminal conviction, and has never received a bond hearing.

b. Second Circuit Has Split With the Fifth and Eighth Circuits on Section 1225(b)(2)(A).

On April 28, 2026, the Second Circuit has split with the Fifth and Eighth Circuits on Section 1225(b)(2)(A), the same persuasive case law Federal Respondents use. In *Cunha v. Freden*, No. 25-3141-pr, 2-3 (2nd Cir. 2026), the government appealed a grant of a writ of habeas corpus. Petitioner Cunha is a noncitizen from Brazil, who entered without inspection around 2005, and has lived in the United States since. The government detained him in September of 2025, placed him in removal proceedings, and asserted that he was detained under 8 U.S.C. § 1225(b)(2)(A). The district court agreed with petitioner Cunha and stated Section 1225(b)(2)(A) did not apply to him, but rather, his detention was governed by 8 U.S.C. § 1226(a). The Second Circuit disagreed with the government and reasoned the following:

“This result is dictated by the plain text of these provisions, and further confirmed by the statute’s context, structure, history, and purpose. It likewise comports with the Supreme Court’s established understanding of Sections 1225 and 1226. It reflects Executive Branch practice over thirty years and across five Presidential administrations. Moreover, it explains why Congress has never challenged that settled practice despite making numerous amendments to the immigration laws. Finally, even if the government’s newfound interpretation of Section 1225(b)(2)(A) were plausible—and it is not—we would nonetheless reject it based on our obligation to construe these statutes in a manner that would avoid the serious constitutional questions attendant to what would be the broadest massdetention-without-bond mandate in our Nation’s history for millions of noncitizens.”

Cunha v. Freden, No. 25-3141-pr, 2-3 (2nd Cir. 2026).

A statute should not be read to authorize prolonged detention without individualized review unless Congress has clearly required that result. Therefore, Petitioner is detained under §

1226(a), not § 1225(b). Because § 1226(a) allows release on bond or parole, Respondents' mandatory-detention theory fails, and Petitioner is entitled to a bond hearing.

V. Continued Detention Without an Individualized Bond Hearing Violates Due Process

Continued detention without a meaningful individualized bond hearing violates due process. Civil immigration detention is not punishment. Its purpose is to ensure appearance and protect the community where necessary. When detention becomes prolonged and no neutral decisionmaker has assessed whether continued confinement is justified, the Fifth Amendment requires meaningful review.

The Supreme Court's due process framework requires courts to balance: (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Petitioner meets each factor.

First, Petitioner's private liberty interest is substantial. She has been detained since September 3, 2025. She entered the United States as a young child, has lived in Ohio for most of her life, attended middle school and high school here, has only one child, a United States citizen born only months before her arrest, has no criminal conviction, has substantial family ties, and the state criminal case that led to ICE custody was dismissed at the State's cost. The hardship caused by detention has been severe.

Petitioner was breastfeeding her United States citizen child when she was arrested. She was separated from her baby forced to stop breastfeeding, causing physical pain and mental anguish. Her child has since been moved between households because the child's father is also

detained. Continued detention has separated a mother from her child and imposed a serious, ongoing deprivation of liberty.

Second, the risk of erroneous deprivation is high because no bond redetermination has occurred. The risk of erroneous deprivation is high where the government continues to detain a person without any individualized assessment of danger, flight risk, or the availability of alternatives to detention-all of which Petitioner has diligently sought without having asked for this Court's intervention prior. See original habeas petition.

Here, the Immigration Judge did not deny bond after weighing evidence and hearing a proffer. The Immigration Judge claimed lack of jurisdiction. Therefore, no judge has determined whether Petitioner is dangerous, whether she is a flight risk, whether a bond would ensure appearance, or whether alternatives to detention would reasonably serve the government's interests.

That absence of review creates the exact risk *Mathews'* factor was designed to prevent. A bond hearing would have substantial value because it would require the government to justify continued detention based on Petitioner's actual circumstances rather than a categorical label. *Azalyar v. Raycraft*, 814 F. Supp. 3d 926 (S.D. Ohio 2026) is instructive. There, the court applied *Mathews* and found that detention without meaningful bond review created a high risk of erroneous deprivation where the government failed to communicate a sufficient basis for continued detention and the immigration judge failed to make an individualized assessment. *Azalyar v. Raycraft*, 814 F. Supp. 3d 926 (S.D. Ohio 2026). The same core problem exists here. Petitioner remains detained without any bond hearing.

Finally, the government's interest does not justify prolonged detention without review. The government has legitimate interests in ensuring appearance at immigration proceedings and

protecting the community, petitioner recognizes that. But those interests do not require detention without a bond hearing. A bond hearing does not require her release. It merely requires the government to justify continued detention before a judge. Requiring a hearing here would not interfere with the removal proceedings or decide the merits of the case. It would only determine whether continued detention is necessary while those proceedings continue.

Further, Federal Respondents' reliance on *Demore v. Kim*, 538 U.S. 510 (2003) and *Martinez v. Larose*, 968 F.3d 555 (6th Cir. 2020) do not defeat petitioner's Due Process claim. Respondents may rely on *Demore v. Kim*, but *Demore* does not authorize prolonged detention without individualized review in these circumstances. *Demore* involved mandatory detention of certain criminal noncitizens under a different statutory provision, and the Court emphasized the brief and limited nature of the detention at issue. *Demore v. Kim*, 538 U.S. 510 (2003). Petitioner is differently situated. She has no criminal conviction, her underlying state case was dismissed, and her detention has continued for months without any individualized bond determination. *Martinez v. Larose* is also distinguishable. *Martinez v. Larose* addressed detention in the post-removal-order context under § 1231(a), not detention pending removal proceedings under § 1226(a) or § 1225(b). *Martinez v. Larose*, 968 F.3d 555 (6th Cir. 2020).

The statutory posture matters. Petitioner does not challenge detention after a final removal order in the same posture as *Martinez v. Larose*. She challenges ongoing civil detention without a bond hearing while her immigration proceedings and review remain pending.

Therefore, the Court should hold that Petitioner's prolonged detention without a meaningful bond hearing violates the Fifth Amendment and order Federal Respondents to provide a custody hearing. At that hearing, the government *should* bear the burden of justifying

continued detention based on clear and convincing evidence that Petitioner presents a danger or flight risk that cannot be addressed through bond or reasonable conditions of release.

VI. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court reject Respondents' jurisdictional, exhaustion, statutory, and due process arguments.

This case is not a challenge to removal; it is a challenge to a nearly 8 month long civil detention without a bond hearing. Section 1252(b)(9) does not preclude habeas jurisdiction because Petitioner challenges custody, nor removability or any final order of removal.

Exhaustion does not warrant dismissal because further administrative review would be futile, and would only prolong the hardship caused by Petitioner's continued detention.

On the merits, Petitioner is detained under 8 U.S.C. § 1226(a), not § 1225(b). She is not an arriving alien seeking admission at the border. She is a long-term resident arrested in the interior, detained while ordinary removal proceedings remain pending, and entitled to the custody process that § 1226(a) provides.

Even if the Court were to accept Respondents' statutory position, continued detention without an individualized bond hearing violates the Fifth Amendment. Petitioner has been detained for months, separated from her United States citizen child, and denied any meaningful determination of danger, flight risk, or the availability of reasonable alternatives to detention.

Accordingly, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and order Respondents to provide Petitioner with a bond hearing before an Immigration Judge. At that hearing, Federal Respondents should bear the burden of proving by clear and convincing evidence that Petitioner presents a danger or flight risk that cannot be

addressed through bond. In the alternative, Petitioner respectfully requests that this Court order her immediate release.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing comports with twenty (20) pages for administrative page limitation identified in Local Rule 7.1(f) and a copy of the foregoing was served electronically. Notice of filing was sent to all registered parties by operation of the Court's electronic filing system.

Respectfully submitted,

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