UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSE NILA CASTRO Individually and on behalf of all others similarly situated, *Petitioner,* *v.* **KEVIN RAYCRAFT**, ET. AL., *Respondents.*	CASE NO. 1:26-cv-161 Hon: Hala Y. Jarbou

REPLY TO RESPONSE IN OPPOSITION

INTRODUCTION

Petitioner has lived in the United States for twenty four years, since has three years old, and holds valid status under the Deferred Action for Childhood Arrivals (DACA) program. He was arbitrarily arrested and detained after a suspect traffic stop on January 3, 2026. Respondents cannot and have not attempted to meaningfully contest that, for two decades, individuals in Petitioner's exact posture have been detained, if at all, under 8 U.S.C. § 1226(a), with the right to a bond hearing before an immigration judge. (Pet. ¶¶ 29–39, PageID 09-11). Rather than address the illegality of the government's abrupt abandonment of that long-settled interpretation, Respondents invoke a series of threshold arguments in an effort to avoid judicial review. None of their attempts have merit.

Respondents' exhaustion argument fails because no administrative path exists: *Matter of Yajure-Hurtado* categorically strips immigration judges of jurisdiction to hear bond requests from individuals like Petitioner. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) Inexplicably, Respondents still insist § 1225(b)(2)(A) applies simply because he entered without inspection decades ago, an interpretation precluded by statutory text, regulations, and decades of uniform practice. They then claim he has received due process because he "may request a bond hearing," even though the agency itself has eliminated that jurisdiction. Due process does not tolerate illusory procedures, particularly where the deprivation of freedom lies "at the heart of the liberty the Clause protects." *Zadvydas v. Davis,* 533 U.S. 678, 679 (2001). Yet Respondents seem to be satisfied with representing to the courts and the country at large that this phantom judicial equity should be sufficient when guarding inalienable rights.

Respondents next argue the APA is unavailable because he challenges detention rather than final agency action. However, his petition squarely challenges the July 8, 2025 DHS directive and *Yajure-Hurtado*, which bind immigration judges, dictate classification, and carry immediate legal effect. Their position that the Suspension Clause is irrelevant is baffling: Petitioner seeks core habeas relief of release or, at minimum, a constitutionally required bond hearing. Finally, Respondents' contention that only the local Field Office Director is a proper respondent is incorrect as this action challenges nationwide policies created and enforced by DHS and EOIR leadership, all of whom are proper respondents.

Recent authority confirms Respondents' position is unlawful. On November 25, 2025, the Central District of California certified a nationwide class, of which Petitioner is a member, and granted partial summary judgment holding that DHS's policy violates the INA. *Maldonado Bautista v. Santacruz Jr.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. November 20, 2025). On

December 18, 2025 the Court issued a Final Judgment in the case. Prior to the final judgment in *Bautista*, Respondents actively argued in federal courts that the *Bautista* order was 'non-binding' because it lacked a final judgment. (See Exhibit B, Govt Response in W.D. La.). Since entry of the final judgment, undersigned counsel has received reports from across the country that Respondents continue to refuse to honor it, asserting, among other things, that the judgment applies only within California; that it did not vacate *Matter of Yajure Hurtado*; and that Immigration Judges lack jurisdiction under what Respondents claim is the plain language of the statute. Additionally, EOIR has issued instructions to all immigration judges to follow the BIA's decision in *Matter of Yajure Hurtado* as binding precedent because "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado.*" (Exhibit D, Email from Judge Teresa L. Riley).

Because Respondents refuse to honor that nationwide ruling, as well as the dozens of ruling from this very district as well, continued litigation in this District is essential. A Writ of Habeas Corpus from *this* Court is the only mechanism to secure Petitioner's immediate release or hearing and enforce the rights declared in *Bautista* against the specific officials holding him in Michigan. Respondents' opposition in this very case proves the necessity of this Writ. They argue that Petitioner—a member of the *Bautista* class—is nonetheless properly detained under § 1225(b)(2). This confirms that without a direct order from this Court to the custodian in this District, Respondents will continue to ignore the nationwide class certification and detain Petitioner indefinitely.

While the Central District of California has certified a nationwide class including Petitioner, continued litigation in this District is essential. The *Bautista* court granted declaratory relief but lacks habeas jurisdiction over Petitioner's immediate custodians in Michigan.

Respondents continue to detain Petitioner in violation of law despite the *Bautista* order. A Writ of Habeas Corpus from *this* Court is the only mechanism to secure his immediate release or hearing and enforce the rights declared in *Bautista* against the specific officials holding his in Baldwin.

Plainly, Respondents offer no reasonable justification for detaining Petitioner as though he were an applicant for admission at a port of entry. Their opposition relies on the same misclassification that dozens of federal courts have rejected, and it ignores the sweeping constitutional consequences of denying an entire population access to any form of custody review. As Petitioner is detained under the wrong statute, has been denied the bond hearing that § 1226(a) and the Due Process Clause guarantee, and faces ongoing unlawful confinement that only this Court can remedy, the petition for habeas corpus must be granted.

ARGUMENT

A. Petitioner's Unrevoked DACA Status Precludes Mandatory Detention and Requires Individualized Custody Review.

Respondents do not dispute that Petitioner currently holds valid Deferred Action for Childhood Arrivals ("DACA") status. Nor do they contend that DHS has terminated or revoked that status pursuant to its own regulations. That omission is dispositive.

DACA is a formal, regulated exercise of prosecutorial discretion under which DHS affirmatively determines that an individual merits deferred action from removal. 8 C.F.R. § 236.21(a). Although deferred action does not confer "lawful status," DHS regulations expressly recognize that a grant of DACA constitutes authorized presence in the United States for the duration of the deferred action period. See 8 C.F.R. §§ 236.21(c), 1.3(a)(4)(vi). A grant of DACA confers authorized presence, eligibility for employment authorization, and recognition

that the recipient does not warrant enforcement priority. *Id.*; 8 C.F.R. § 236.22(a). Deferred action is not automatic, informal, or incidental, rather it is the product of an individualized assessment, including identity verification, background checks, and a discretionary determination that the applicant merits favorable treatment. 8 C.F.R. §§ 236.22(a), 236.23(b).

Under DHS's own rules, deferred action remains in effect unless and until DHS affirmatively terminates it through the exercise of discretion. 8 C.F.R. § 236.23(d). DHS's own regulations require an affirmative discretionary act to terminate deferred action; DACA does not lapse or dissolve by implication. 8 C.F.R. § 236.23(d). Respondents' failure to follow that mandatory regulatory sequence by detaining Petitioner while his deferred action remained valid constitutes a due process violation regardless of whether DHS ultimately claims authority under § 1225(b)(2) or § 1226(a).Termination is not automatic, nor is it presumed. Id. Yet here, Respondents detained Petitioner without first terminating his deferred action, without providing notice of any intent to do so, and without engaging in any individualized assessment of whether his DACA status should be withdrawn.

That conduct violates due process. DHS may not confer deferred action through a regulated federal program and then disregard that grant when depriving a person of physical liberty. Detention without first addressing the continued validity of deferred action bypasses the very discretionary framework DHS is required to apply.

Moreover, the existence of unrevoked DACA is incompatible with categorical, mandatory detention. Section 1225(b)(2) presupposes that DHS has not yet exercised discretion regarding an individual's presence and that the person is being held pending an admissibility determination. That presumption does not apply where DHS has already exercised discretion in

the individual's favor through a formal grant of deferred action. See 8 C.F.R. § 236.21(a). Applying § 1225(b)(2) to a DACA recipient collapses discretionary and mandatory detention regimes in a manner unsupported by statute or regulation.

At minimum, Petitioner's unrevoked DACA status required DHS to proceed under a discretionary custody framework permitting individualized review. Respondents' failure to do so renders Petitioner's detention unlawful under both the INA and the Fifth Amendment.

B. Detaining a DACA Recipient Without Individualized Review Is Arbitrary and Violates Due Process.

Petitioner's detention is arbitrary in the most literal sense: it disregards DHS's own prior and continuing determination that he merits favorable discretion. DACA is granted only after DHS determines that the recipient poses no threat to public safety and does not warrant enforcement priority. 8 C.F.R. §§ 236.22(a), 236.23(b). Renewal of DACA reflects DHS's reaffirmation of that determination. 8 C.F.R. § 236.22(b).

Petitioner has renewed his DACA status multiple times. Each renewal reaffirmed DHS's conclusion that he poses no danger and no meaningful flight risk. Yet Respondents detained Petitioner without acknowledging, reconciling, or addressing that conclusion. There is no explanation for how an individual deemed worthy of deferred action, employment authorization, and continued presence can simultaneously be subjected to mandatory detention without any individualized custody determination.

This unexplained contradiction renders the detention arbitrary. Government action depriving liberty must be reasoned and internally consistent. *Zadvydas v. Davis*, 533 U.S. 678,

690 (2001). Here, Respondents offer no regulatory or factual explanation for why Petitioner's DACA status suddenly ceased to matter. No intervening conduct is alleged. No termination decision was made. What changed was only the government's interpretation of detention authority.

That is not constitutionally sufficient. The Due Process Clause does not permit DHS to detain individuals based on shifting legal theories while ignoring settled discretionary determinations it has already made. By detaining Petitioner without terminating his deferred action or affording any individualized custody review, Respondents imposed the most severe form of civil confinement in a manner that is arbitrary, irrational, and constitutionally infirm.

C. Petitioner Is Not Required to Exhaust Administrative Remedies Because Exhaustion Would Be Futile, Is Not Statutorily Required, and Cannot Apply Where the Agency Has Categorically Foreclosed Relief.

Respondents' exhaustion theory depends on an administrative path that does not exist. Although they claim Petitioner could seek a bond hearing and then appeal to the BIA, the government's own policy categorically strips immigration judges of bond jurisdiction over individuals like Petitioner. The government cannot demand exhaustion while simultaneously eliminating the remedy it says Petitioner must pursue.

Section 2241 imposes no statutory exhaustion requirement. Courts do not require a futile ritual for the sake of formality. The administrative process has been turned into futile, pre-determined ritual. The attached declarations confirm a systemic, national pattern where Immigration Judges (IJs) categorically deny bond motions, explicitly asserting they lack jurisdiction to redetermine custody because of the binding nature of *Matter of Yajure-Hurtado*. (See Exhibit A). This is a denial of authority at the entry-point of relief, rendering the subsequent

BIA appeal moot: the BIA cannot review the merits of a bond when the IJ's denial was based purely on a procedurally defective jurisdictional claim. To appeal a jurisdictional bar is simply to **prolong unlawful detention.**

Respondents misconstrue *Leonardo v. Crawford, Rabi v. Sessions*, and similar cases. Those decisions involved petitioners who received an actual bond hearing from an immigration judge with jurisdiction, after which BIA review was available. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). In that context exhaustion was required because the agency could provide relief. Here, Petitioner challenges his detention precisely because immigration courts cannot provide bond hearings at all. *Yajure-Hurtado* bars jurisdiction in the first instance, eliminating the administrative path Respondents describe. Judges in this District have already recognized that exhaustion is unwarranted under these circumstances. See *Sanchez Alvarez v. Noem*, 2025 WL 2942648, at *3 (W.D. Mich. Oct. 17, 2025); *Hernandez Garcia v. Raycraft*, 2025 WL 3122800, at *5 (W.D. Mich. Nov. 7, 2025); *Rodriguez Carmona v. Noem,* 2025 WL 2992222, at *4 (W.D. Mich. Oct. 24, 2025). Crucially, this Court has already recognized in *Juarez Mendez v. Raycraft, No. 1:25-cv-01323, (W.D. Mich. Nov. 18, 2025)* (See Exhibit C), that exhaustion is not required where the legal issue is predetermined. Requiring Petitioner to formally request a bond hearing just to receive a pre-written denial order based on *Yajure-Hurtado* serves no purpose other than delay.

Respondents argue that Petitioner must first request a bond hearing to exhaust remedies. This ignores the reality of the administrative record. As detailed in the attached declarations from immigration practitioners, Immigration Judges are not merely denying bond on the merits; they are refusing to schedule hearings or accept evidence, citing *Yajure-Hurtado* as a total jurisdictional bar. (See Exhibit. A). In *Juarez Mendez v. Raycraft, No. 1:25-cv-01323, (W.D.*

Mich. Nov. 18, 2025) (See Exhibit C), this Court recognized that exhaustion is not required where the BIA has issued a binding precedential decision that predetermines the outcome. Requiring Petitioner to wait weeks for a pro forma denial order based on a policy this Court has already found unlawful is the definition of a futile exercise.

Respondents also misapply the prudential exhaustion factors. The first factor of agency expertise has no role where the issue is a pure question of law: whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's detention. That question requires no factual development, and the BIA cannot reconsider *Yajure-Hurtado* in an individual case. The second factor of avoiding bypass of the administrative scheme likewise fails because there is no available scheme to bypass; Respondents have closed every administrative door. The third factor of whether the agency could correct its own mistake underscores the futility: *Yajure-Hurtado* categorically predetermines the outcome. The government has created an executive ouroboros, where the remedy prescribed is consumed by the unlawful actions of the agency itself. Even if an immigration judge accepted a bond request, the BIA would be bound to reverse. Requiring Petitioner to attempt this empty exercise would only prolong unlawful detention in violation of the Constitution.

Most importantly, the affidavits submitted with this reply confirm what Respondents refuse to acknowledge: there is no administrative path for Petitioner to exhaust. Sworn declarations from immigration attorneys practicing in over **twenty-five jurisdictions**—including Baltimore, Chicago, Cleveland, Detroit, El Paso, Los Angeles, and New York—demonstrate that exhaustion is not merely futile; it is structurally impossible. See Exhibit A (Various Affidavits). Immigration Judges (IJs) nationwide are uniformly interpreting *Matter of Yajure-Hurtado* and the July 8, 2025 DHS directive as a complete jurisdictional bar.

The attached evidence reveals a disturbing pattern of categorical denial. Attorneys attest that IJs are not only denying bond but are refusing to even schedule hearings or accept evidence regarding equities, explicitly stating that such facts are 'irrelevant' because their hands are legally tied. See Decl. of M. Bykova at ¶7 (IJ refused to schedule hearings entirely); Decl. of J. Binnall at ¶7 (IJ refused to accept evidence of community ties). As demonstrated by the declaration of attorney Luis Angeles, Immigration Judges are explicitly stating on the record that they would grant bond based on equities but are 'stuck' by *Yajure-Hurtado*. (Exhibit. A). This proves that the exhaustion requirement is not a matter of administrative discretion, but a pre-ordained dead end.

This record proves that the administrative remedy Respondents insist upon is a mirage. No IJ will hear Petitioner's bond request on the merits, and the BIA will not review a decision IJs are forbidden to make. To require exhaustion in the face of such predetermined, systemic rejection would be to demand a 'futile ritual' that serves only to prolong Petitioner's unlawful detention.

D. Petitioner Is Not Properly Detained Under § 1225(b)(2). Respondents' Interpretation Misrepresents the Statutory Text, Structure, History, and Purpose of IIRIRA.

Respondents insist that § 1225(b)(2) mandates detention of anyone present in the United States without admission, but this reading ignores the text and function of § 1225. Section 1225(a)(3) governs inspection of individuals "seeking admission" at or near the time they present themselves for entry, and § 1225(b)(2) applies only when an "examining immigration officer determines" during that inspection that an individual is not "clearly and beyond a doubt entitled to be admitted." As the *Bautista* court held, the mandatory detention provision of § 1225(b)(2) contains a specific factual predicate: a determination by an 'examining immigration officer'

regarding admissibility. In Petitioner's case, he entered twenty four years ago. There is no evidence in the record that an 'examining immigration officer' made any determination at that time. DHS cannot satisfy this statutory condition precedent twenty years later by creating a convenient legal fiction.

Petitioner was not referred for inspection, not stopped at a port of entry, and not processed under § 1225(a). He was issued a Notice to Appear initiating § 1229a removal proceedings governed by § 1226(a). Nothing in the INA permits DHS to retroactively convert a previous entry into an "ongoing inspection" to impose border-style detention. (Pet. ¶¶ 29–39, 43–56. PageID 09-14) Respondents rely on § 1225(a)(1)'s definitional clause deeming certain individuals "applicants for admission," but they blur the line between being labeled an applicant and undergoing inspection as one. Section 1225's detention provisions are triggered only by an actual inspection by an "examining immigration officer," not by DHS's later encounter with a long-term resident.

Respondents further argue that anyone "seeking to remain" is "seeking admission," but "seeking admission" is a term of art limited to presenting oneself for inspection, not to remaining in the United States during removal proceedings. While the government is likely delighted by the prospect of twisting settled law and basic language to fit their own agenda, it is the proverbial forcing a square peg into a round hole and the Court should be skeptical of such reasoning. Congress could have drafted § 1225(b)(2) to cover "any alien present without admission." It did not. Respondents' interpretation, which asserts that all unadmitted aliens are 'applicants for admission,' 'unacceptably collapse[s] § 1226 into nonexistence. This violates the settled rule against surplusage, as the court found, noting that only Petitioner's reading allows § 1225 and §

1226 to exist in 'harmony' and maintains an 'appreciable or meaningful distinction' between the permissive 1226 and the restrictive 1225.

Mandatory detention turns on a determination made during inspection, not on DHS's preferred reclassification. The government's interpretation fails to account for Congress's choice to use the active term "seeking" in describing those immigrants covered by § 1225(b)(2). "Seeking" "implies action[.]" Lopez-Campos v. Raycraft,No. 2:25-cv-12486 at *6, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); see also *Sumba v. Crowley*, No. 1:25-cv-13034, 2025 WL 3126512, at *4 (N.D. Ill. Nov. 9, 2025) ("a present participle stated in the progressive tense [] implies some ongoing, affirmative action[.]" (emphasis in original)).

Nor does Respondents' claim that § 1226(a) remains applicable only to admitted noncitizens align with statutory design. Section 1226(a) governs the overwhelming majority of removal cases, including all interior arrests of noncitizens whether they entered lawfully or unlawfully. Their reliance on § 1226(c) or the Laken Riley Act is misplaced; those provisions expand mandatory detention for specified criminal categories, not for long-term residents who are not undergoing inspection.

Finally, Respondents' argument that parole under § 1182(d)(5) is Petitioner's sole release mechanism assumes he is properly detained under § 1225(b)(2). He is not. Under the correct framework of § 1226(a), immigration judges retain bond authority. Parole is not a substitute for individualized custody review and cannot constitutionally replace bond hearings.

E. Petitioner's Mandatory, Indefinite Civil Detention Grossly Violates Due Process independent of DACA Status.

Respondents' due process argument relies on incorrect readings of Supreme Court precedent and a misunderstanding of the protections owed to long-term residents arrested inside

the United States. *Shaughnessy v. United States ex rel. Mezei* and *Kaplan v. Tod* involved returning individuals stopped at the border; *Thuraissigiam* involved a recent entrant apprehended within yards of the border and placed in expedited removal. *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953); *Kaplan v. Tod*, 267 U.S. 228 (1925); *DHS v. Thuraissigiam*, 591 U.S. 103 (2020). None concerned an individual like Petitioner, who has lived in the United States for decades, and is in full § 1229a proceedings.

For more than a century, the Supreme Court has held that once a noncitizen enters the country and is found within the United States, they are entitled to greater protections than those turned away at the border. *The Yamataya v. Fisher*, 189 U.S. 86 (1903). Respondents cite *Yamataya* selectively while ignoring its core holding: interior residents, even if they entered unlawfully, are owed meaningful due process. "Therefore it is not competent for the Secretary of the Treasury or any executive officer, at any time within the year limited by the statute, arbitrarily to cause an alien who has entered the country, and has become subject in all respects to its jurisdiction, and a part of its population, although alleged to be illegally here, to be taken into custody and deported without giving him all opportunity to be heard upon the questions involving his right to be and remain in the United States." *Id.*

Respondents assert that because Petitioner "has not been admitted," he receives only the minimal process afforded to arriving aliens. That is patently false. The Fifth Amendment protects "all persons" within the United States, *Zadvydas*, 533 U.S. at 693, and especially those who, like Petitioner, have lived here for many years and established substantial connections. Courts in this District have repeatedly rejected the government's due process theory in cases involving long-term residents classified under § 1225(b)(2). See *Hernandez Garcia v. Raycraft*, 2025 WL 3122800, at 6 (W.D. Mich. Nov. 7, 2025); *Sanchez Alvarez v. Noem*, 2025 WL 2942648, at 7

(W.D. Mich. Oct. 17, 2025); *Rodriguez Carmona v. Noem,* 2025 WL 2992222, at 6 (W.D. Mich. Oct. 24, 2025).

Respondents' claim that Petitioner has "access to counsel," "notice," and "may request a bond hearing" is not only incorrect, it makes a mockery out of due process. He cannot request a bond hearing because *Yajure-Hurtado* removes immigration judge jurisdiction for individuals categorized under § 1225(b)(2). The availability of removal proceedings does not satisfy due process where the detention itself is unlawful, and Respondents' assertion that detention has been "brief" ignores the open-ended nature of custody in this situation, something *Demore* explicitly warned against. 538 U.S. at 529.

Courts evaluating prolonged interior detention consistently apply the factors under *Mathews v Eldridge*. *See Santiago Santiago v. Noem*, 3:25-cv-00361-KC (W.D. Tex. October 1, 2025). All three factors compel relief: (1) Petitioner's liberty interest is at the core of the Due Process Clause; (2) the risk of erroneous deprivation is high because he has been misclassified under § 1225(b)(2) and denied any chance to show lack of danger or flight risk; and (3) the government's interests are fully protected by a bond hearing- the mechanism Congress authorized in § 1226(a) for § 1229a cases. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, due process requires at least one meaningful bond hearing.

F. Respondents Misconstrue Petitioner's APA Claims and the Scope of Habeas Review.

Respondents argue that Petitioner's APA claims are "not properly before the Court," but that position reflects a misunderstanding of both the petition and the APA. Petitioner is not pursuing a freestanding APA lawsuit or seeking summary judgment on a final rule. He invokes the APA in the limited way habeas permits: to show that the statutory interpretation underlying

his detention is unlawful, ultra vires, and contrary to the INA. The APA provides interpretive standards for evaluating the legality of detention; it is not an independent cause of action here.

Respondents incorrectly assume Petitioner filed a "hybrid" APA–habeas action. He did not. Every requested remedy—release and declaratory clarification of the statutory basis for detention—falls squarely within habeas. Habeas courts routinely use APA § 706 standards when determining whether an agency has acted "contrary to law" or "in excess of statutory jurisdiction." Doing so does not convert the case into an APA suit; it applies settled principles permitting habeas courts to reject unlawful interpretations embedded in detention decisions.

Respondents' reliance on the Order to Show Cause is also misplaced. The Court directed them to explain why "the writ of habeas corpus and other relief requested in the petition should not be granted." (Order to Show Cause, PageID.46-47). The "other relief" includes declaratory findings that DHS's statutory theory is unlawful, and such findings are fully consistent with habeas practice and supported by the APA's requirement that agencies act within statutory bounds.

Petitioner has not attempted to simultaneously pursue a distinct APA remedy. He has not sought rulemaking, an administrative record, or any relief available only under § 702. He seeks only release and a declaration that DHS's detention is contrary to the statute. The APA argument simply explains why DHS's July 2025 policy shift is invalid and cannot support detention. Respondents misread § 704 and *Trump v. J.G.G.* 145 S. Ct. 1003 (2025). Section 704 bars freestanding APA suits where habeas provides complete relief; it does not bar habeas petitioners from invoking APA principles.

Petitioner agrees with the Supreme Court in *J.G.G.* that § 2241 is the habeas vehicle to challenge the **'fact or duration'** of detention, not the condition. However, the APA serves a

critical function: establishing that the underlying agency policy (*Yajure-Hurtado* and the DHS Guidance) is 'ultra vires' and 'in excess of statutory jurisdiction.' By claiming the APA is unavailable, Respondents are essentially asserting a right to hide their 'arbitrary, capricious, and ultra vires' policy decision-making from judicial review, even when that policy leads to illegal confinement.

J.G.G. held only that petitioners seeking release must proceed via habeas, not a standalone APA action. *Id.* Petitioner has done exactly that. The APA therefore remains available as an interpretive framework for determining whether detention is lawful. Respondents' theory would mean habeas courts could not consider whether DHS acted arbitrarily or beyond statutory authority, even when detention rests on a plainly unlawful interpretation.

G. The Suspension Clause Squarely Protects Petitioner's Habeas Challenge to the Lawfulness of His Detention.

Respondents mischaracterize Petitioner's claim as a challenge to removal, rather than detention, in an effort to place him outside the protection of the Suspension Clause. This is incorrect. The petition challenges his ongoing physical restraint, the statutory basis for that custody, and the government's assertion that he is a mandatory-detention "applicant for admission" without access to bond. The Supreme Court's decision in *Thuraissigiam* does not limit the Suspension Clause to removal-related claims. Rather, the Court held that the Suspension Clause historically protects "core" habeas claims seeking release from unlawful custody. 591 U.S. at 119–21. That is exactly what Petitioner seeks: release from unlawful mandatory detention under a misapplied statute. The petition neither challenges his removal order nor seeks relief from expedited-removal procedures. Instead, it challenges his present detention. Nor is Petitioner barred from invoking constitutional protections due to the manner of his entry. Courts in this

district and across the country have repeatedly held that § 1225(b)(2) detention of long-term residents arrested in the interior (far outside the border-control context of *Thuraissigiam*) triggers full habeas review. See, e.g., *Hernandez Garcia v. Raycraft,* 2025 WL 3122800, at *6 (W.D. Mich. Nov. 7, 2025).

H. Multiple Federal Respondents Are Proper Because the Petition Challenges Both Custody and the Legal Authority Underlying that Custody.

This case challenges DHS's July 2025 policy shift, the nationwide interpretation of § 1225(b)(2), and the federal executive officials who have promulgated and enforced that interpretation. The Sixth Circuit recognizes that in immigration habeas petitions "extraordinary circumstances" justify naming higher-level officials when they possess ultimate authority over detention policy or the statutory interpretation being challenged. *Roman v. Ashcroft*, 340 F.3d 314, 320–22 (6th Cir. 2003). That is precisely the situation here: the detention flows directly from federal policy decisions issued at the highest levels of DHS and the Attorney General.

Respondents fail to identify any prejudice or practical impediment created by the presence of additional federal respondents. Their inclusion ensures that the individuals responsible for the policy and statutory interpretation at issue are properly before the Court. This Court expressly rejected Respondents' attempt to dismiss high-level officials in *Mendez*. The Court retained Secretary Noem as a respondent specifically to ensure authority to enforce relief in the event of transfers. *Mendez*, Slip Op. at 13-14. The same logic applies here: dismissing the policymakers who mandated this unlawful detention regime would frustrate the Court's ability to grant complete relief, particularly given ICE's practice of moving detainees between districts. Furthermore, Secretary Noem is a necessary and proper respondent to ensure the Court retains jurisdiction to enforce relief in the event of a transfer. Given ICE's practice of transferring

detainees between facilities and districts, retaining the Department Head is essential to ensure that any Writ issued by this Court cannot be defeated by moving the Petitioner across state lines.

D. Secretary Noem is a Proper Respondent.

Respondents move to dismiss Secretary Noem, arguing that only the Field Office Director is a proper respondent. This Court has already rejected that exact argument in *Mendez v. Raycraft*. There, the Court retained Secretary Noem as a respondent specifically 'to ensure that Respondents maintain authority to enforce this Court's conditional grant of habeas relief... in the event that Petitioner is transferred.' *Mendez*, Slip Op. at 13-14. Given ICE's documented practice of transferring detainees between districts, retaining the Department Head is essential to preserve the Court's remedial power.

I. Declaratory Relief Is Necessary for Petitioner and the Putative Class.

The need for declaratory relief in this case is underscored by the parallel class litigation now pending in the Central District of California, where the court has already issued two comprehensive rulings rejecting the very statutory arguments Respondents advance here. In *Maldonado Bautista v. Santacruz*, the court issued a final order, holding that DHS's July 8, 2025 directive is unlawful because it "contradicts the statutory text, structure, and design of the INA" and impermissibly reclassifies long-term interior residents as "applicants for admission" subject to mandatory detention under § 1225(b)(2). *Maldonado Bautista v. Santacruz Jr.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. November 20, 2025). The court found that such reclassification "collapses the INA's carefully drawn distinction between border processing and interior arrest" and unlawfully strips individuals of their statutory entitlement to bond hearings under § 1226(a). *Id.* That reasoning applies with equal force here, where Petitioner is detained on the basis of the very policy the California court found unlawful.

The same court also certified a nationwide "Bond Eligible Class," encompassing all noncitizens present in the United States without lawful status who entered without inspection, were apprehended in the interior, and are not subject to detention under §§ 1225(b)(1), 1226(c), or 1231. *Id.* In granting certification, the court held that the July 2025 DHS directive operates as a single unlawful, system-wide policy applied uniformly to all putative class members, and that declaratory and injunctive relief under Rule 23(b)(2) is not only appropriate but essential to protect the due-process rights of thousands of similarly situated individuals. *Id.* The court rejected the government's argument that § 1252 bars such relief, finding instead that individuals in Petitioner's posture are detained under § 1226(a) and thus remain entitled to bond determinations. *Id.*

Petitioner is squarely within the class definition and suffers the same unlawful injury: reclassification as an "applicant for admission" decades after his entry, denial of bond eligibility, and confinement under a detention statute that does not apply to him. A declaratory judgment from this Court would therefore not only provide complete relief to Petitioner, but also harmonize this District's rulings with the developing national jurisprudence recognizing that DHS's July 2025 reinterpretation is unlawful. As the California court emphasized, only declaratory relief can prevent the government from continuing to apply a legally erroneous and unconstitutional statutory framework to thousands of long-term residents arrested in the interior. Even more pressing is the fact that the Court must send a strong message to the government: that its attempts to warp plain language and readings of statutes, case law, and judicial orders will not be tolerated.

Respondents may argue that the *Bautista* nationwide certification renders this action moot or duplicative. This is incorrect. As the Supreme Court held in *Rumsfeld v. Padilla*,

jurisdiction for core habeas relief lies in the district of confinement with the " immediate custodian". 542 U.S. 426, 434-435 (2004). A declaratory judgment from California, while authoritative on the law, does not carry the coercive power of a Writ of Habeas Corpus directed at Respondents Raycraft and Dunbar. Without a specific order from this Court, Petitioner remains in a legal limbo wherein a member of a victorious class in California, yet physically detained in Michigan by officials who refuse to honor that ruling. This petition is the necessary enforcement mechanism for the rights established in *Bautista*.

CONCLUSION

For all of these reasons, Respondents offer no lawful basis to continue detaining Petitioner as though he were an arriving alien subject to mandatory border detention. The statutory text, longstanding agency practice, persuasive federal authority, and the Constitution all confirm that his detention is governed by 8 U.S.C. § 1226(a) and must be accompanied by a meaningful opportunity for individualized custody review.

Separately, Petitioner's detention is unlawful because DHS has confined him while his Deferred Action for Childhood Arrivals status remains valid and unrevoked. DHS's own regulations require an affirmative discretionary act to terminate deferred action, and detaining Petitioner without first doing so violates due process.

Because exhaustion is unavailable and Petitioner has been denied any opportunity for custody review, this Court is the only forum capable of providing relief. Petitioner respectfully requests immediate release, or, in the alternative, a prompt bond hearing before an immigration judge under § 1226(a). Although Petitioner is a member of the nationwide class certified in

Maldonado Bautista v. Santacruz, a writ of habeas corpus from this Court is necessary to enforce his rights in this District.

Respectfully Submitted,

/s/ Robert Anthony Alvarez
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