UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SOSLAN PLIEV, Petitioner, v. KEVIN RAYCRAFT, et. al., Respondents.	Case No. 1:26-cv-00338-JMB-MV Honorable Jane M. Beckering

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW the Petitioner, Soslan Pliev, by and through his undersigned counsel of record, and hereby submits his Reply in Support of Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

The issues presented in the Petition concern Respondents' violation of Petitioner's Fifth Amendment rights. Respondents in their Response contended that they submitted their standardized response. However, the Response not only violates LR 7.1(d)(3)(A), as it is beyond the 25-page limit prescribed by the Local Rules, but also ignores the Court's Order to Show Cause entered on February 9, 2026, as the Response did not contain any information about Petitioner's parole. ECF No. 3. Petitioner only had three business days to prepare and submit its Reply to the 32-pages long standardized response that has seven separate arguments, several of which consisted of sub-sections, while the Respondents, who participate in numerous habeas cases in this Court, submitted their monstrous Response without addressing what the Court ordered to address.

I. Exhaustion is not required and should be excused as seeking a bond redetermination before the immigration court and the Board of Immigration Appeals in the first instance would be futile.

Petitioner pleaded in his Petition why exhaustion is not required in his case. *See* ECF No. 1 ("Petition"), paragraphs 14-22. To further emphasize that argument, exhaustion is not

required, as suggested by Respondents, and requesting the immigration court for a bond hearing would be futile at this juncture.

The Immigration and Nationality Act mandates exhaustion in order to challenge "final order[s] of removal." 8 U.S.C. § 1252(d)(1). However, this provision does not cover challenges to preliminary custody or bond determinations, which are quite distinct from "final order[s] of removal." *See Gornicka v. INS*, 681 F.2d 501, 505 (7th Cir. 1982). ("[I]t is clear bond hearings are separate and apart from deportations hearings.... A bond determination is not a final order of deportation ... and does not effect [sic] the deportation proceeding.").

Congress does require exhaustion for certain types of habeas petitions, but not for those petitions, such as Petitioner's, brought under 28 U.S.C. § 2241. *See James v. Walsh*, 308 F.3d 162, 167 (2d Cir.2002) ("Section 2254(b)(1) requires state prisoners to exhaust all available state court remedies before filing a Section 2254 petition, whereas Section 2241 contains no such exhaustion requirement.").

Thus, no applicable statute or rule mandates administrative exhaustion by Petitioner and whether to require exhaustion is within this Court's "sound judicial discretion." *See Shearson v. Holder*, 725 F.3d 588, 593–94 (6th Cir. 2013) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). "Courts have described an implied requirement to raise issues with an agency as a 'judgemade,' 'prudential,' or 'common law' duty to exhaust," *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019) (citations omitted), and such a court-made exhaustion rule must comply with statutory schemes and Congressional intent, *Shearson v. Holder*, 725 F.3d 588, 593–94 (6th Cir. 2013).

The United States Court of Appeals for the Sixth Circuit has not yet decided "whether courts should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention," *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sep. 9, 2025) (citing *Hernandez Torrealba v. U.S. Dep't of*

Homeland Sec., No. 1:25-cv-1621, 2025 WL 2444114, at *8 (N.D. Ohio Aug. 25, 2025)), and "[t]he Sixth Circuit has not formally adopted a standard for determining when prudential exhaustion applies." *Lopez-Campos v. Raycraft, No. 2:25-cv-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025).* However, courts within the Sixth Circuit "have applied the three-factor test, set forth in *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983) (derived from *McGee v. United States,* 402 U.S. 479, 484[(1971)]; *McKart v. United States*, 395 U.S. 185, 193–95[(1969)),]" to determine whether prudential exhaustion should be required. *Id.*

Under this three-factor test, courts may require prudential exhaustion when:

(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision;
(2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and
(3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Gimenez Gonzalez v. Raycraft, 2025 WL 3006185, at *2 (E.D.Mich., 2025).

These factors all work in Petitioner's favor. First, the issues raised in Petitioner's case are purely legal in nature and do not require the agency to develop the record. *See Casio-Mejia v. Raycraft*, 2025 WL 2976737, at *5 (E.D. Mich. Oct. 21, 2025) (collecting cases). Second, because the Petition includes a due process claim, the administrative scheme (bond hearing before immigration court and subsequent appeal) is futile since, immigration courts and the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Finally, the BIA has conclusively rejected Petitioner's argument, precedentially deciding that a noncitizen who has been present in the United States for a period of years or decades without inspection or authorization is an "applicant for admission" under § 1225(a)(1) and thus subject to mandatory detention during removal proceedings under that section. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (2025); *see also Casio-Mejia*, 2025 WL 2976737,

at *4 (noting that *Yajure Hurtado* is binding on DHS and immigration courts, but not on district courts).

Respondents argue that this Court should implement the procedure described by the Ninth Circuit in *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011), and that the Sixth Circuit endorsed this procedure in "*Rabi v. Sessions*, No. 19-3249, 2018 U.S. App. LEXIS 19661, at *1-2 (6th Cir. July 16, 2018)". Dkt. 4, pages 8-9. However, *Rabi* was an unpublished short opinion that is not available in a publicly accessible electronic database, and Respondents failed to attach it to their Response. Also, the Sixth Circuit has previously held that a due process challenge generally does not require exhaustion since the BIA lacks authority to review constitutional challenges. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006); *accord Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006) ("exhaustion of administrative remedies may not be required in cases of nonfrivolous constitutional challenges to an agency's procedures.") (citation omitted); *Lopez-Campos*, 2025 WL 2496379, at *5. Thus, Respondents reliance on the Ninth Circuit decision and the Sixth Circuit unpublished decision, which was not attached to the Response, is misplaced and should not be considered by this Court.

Moreover, since Chevron deference doctrine was overturned, this Court is not bound by, and is not required to give deference to, any agency interpretation of a statute. *See Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244, 2273 (2024) (discussing that "courts need not and under the [Administrative Procedure Act (APA)] may not defer to an agency interpretation of the law simply because a statute is ambiguous").

Alternatively, even in situations where a court may ordinarily apply prudential exhaustion, the court may still choose to waive exhaustion. *See Lopez-Campos*, 2025 WL 2496379, at *4 (citations omitted). A court may choose to rule upon the merits of the issues presented when the "legal question is 'fit' for resolution and delay means hardship." *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000) (citation omitted). A court may

also waive exhaustion if the "pursuit of administrative remedies would be a futile gesture." *Shearson*, 725 F.3d at 594 (citation omitted).

Accordingly, due to the policy change and the BIA decision in *Matter of Yajure Hurtado*, Petitioner is unlikely to obtain the relief he seeks through the administrative process, and a bond determination hearing and any subsequent appeal of bond determination to the BIA will not preclude but merely delay the need for judicial review. Because administrative review in this instance would be futile, and because every additional day in unlawful detention presents a hardship for Petitioner, the Court should decline to impose an exhaustion requirement upon Petitioner.

II. Petitioner is detained under 8 U.S.C. § 1226 and not under 8 U.S.C. § 1225.

By way of review, 8 U.S.C. § 1225(b)(2), INA § 235(b)(2), requires mandatory detention of "Applicants for Admission." At the same time, noncitizens detained under 8 U.S.C. § 1226(a), INA § 236(a), are not subject to mandatory detention and may be released on bond or on their own recognizance. Respondents argue in their response that Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) and not under 8 U.S.C. § 1226. This argument fails for several reasons.

The Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), determined for the first time that any person who crossed the border unlawfully and is later taken into immigration detention is subject to detention under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention and no longer eligible for release on bond. The decision strips the immigration judge's authority to hear a bond request for any noncitizen present in the United States without having been inspected and admitted and who are later apprehended by DHS.

The relevant statutes at issue are Sections 1225 and 1226. Section 1225, titled "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing," states:

> An alien present in the United States who has not been admitted *or* who arrives in the United States…shall be deemed for purposes of this chapter an applicant for admission... Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking* admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title. 8 U.S.C. § 1225(a)(1), (b)(2)(A) (emphasis added).

Section 1226, entitled "Apprehension and detention of aliens," states:

> On a warrant issued by the Attorney General, an alien *may be arrested and detained pending a decision* on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General— (1) may continue to detain the arrested alien; and (2) may release the alien on— (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole… 8 U.S.C. § 1226(a) (emphasis added).

Prior to and since the decision in *Matter of Yajure Hurtado*, federal district courts in nearly every circuit have all disagreed with Respondents' interpretation and have subsequently granted relief to habeas petitioners. *See Coj Chingo v. Stamper, No. 2:25-CV-00590-JAW, 2025 WL 3513833 (D. Me. Dec. 8, 2025); Mendes v. Hyde, No. 25-CV-627-JJM-AEM, 2025 WL 3496546 (D.R.I. Dec. 5, 2025); Benedicto v. Moniz, No. 1:25-CV-13567-IT, 2025 WL 3471721 (D. Mass. Dec. 3, 2025); Brum Texeira v. Noem, No. 1:25-CV-13460-IT, 2025 WL 3295543 (D. Mass. Nov. 26,2025); Esperanza v. Francis, No. 25-CV-8727, 2025 WL 3513983 (S.D.N.Y. Dec. 8, 2025); Quintero Campos v. DeLeon, No. 25-CV-10099 (LJL), 2025 WL 3514120 (S.D.N.Y. Dec. 8, 2025); Quispe-Sulcaray v. Noem, No. 25-CV-09908 (VEC), 2025 WL 3501207 (S.D.N.Y. Dec. 7, 2025); Rocano Buestan v. McShane, No. 25-CV-8544 (JGLC), 2025 WL 3496361 (S.D.N.Y. Dec. 5, 2025); Santana-Rivas v. Warden Of Clinton County Correctional Facility, No. 3:25-CV-01896, 2025 WL 3513152 (M.D. Pa. Dec. 8, 2025); Conde v. Jamison, No. 25-6551, 2025 WL 3499256 (E.D. Pa. Dec. 5, 2025); Lliguicota v. Cabezas, No. CV 25-17216, 2025 WL 3496300 (D.N.J. Dec. 5, 2025); Perez Suspes v. Rose, No. 25-*

6608, 2025 WL 3492820 (E.D. Pa. Dec. 5, 2025); Tene Sislema v. Soto, No. CV 25-17204 (BRM), 2025 WL 3496749 (D.N.J. Dec. 5, 2025); Pineda-Medrano v. Bondi, No. 1:25-CV-01870, 2025 WL 3472152 (E.D. Va. Dec. 3,2025); Campos-Flores v. Bondi, No. 3:25CV797, 2025 WL 3461551 (E.D. Va. Dec. 2, 2025); Contreras Perez v. Noem, No. 3:25CV882, 2025 WL 3281774 (E.D. Va. Nov. 25, 2025); Diaz Larios v. Noem, No. 1:25-CV-01810-AJT-WBP, 2025 WL 3285491 (E.D. Va. Nov.25, 2025); Espinoza Andres v. Noem, No. CV H-25-5128, 2025 WL 3458893 (S.D. Tex. Dec. 2,2025); Tinoco Pineda v. Noem, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); Galmadez Martinez v. Noem, No. SA-25-CV-01373-JKP, 2025 WL 3471575 (W.D. Tex. Nov. 26, 2025); Granados v. Noem, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26,2025); Enriques Becerra v. Raycraft, No. 1:25-CV-1506, 2025 WL 3511095 (W.D. Mich. Dec. 8, 2025); Gramajo Reyna v. Raycraft, No. 1:25-CV-1575, 2025 WL 3513891 (W.D. Mich. Dec. 8, 2025); Alaniz Perera v. Raycraft, No. 1:25-CV-1496, 2025 WL 3496144 (W.D. Mich. Dec. 5, 2025); Alvarez Osorio v. Raycraft, No. 1:25-CV-1525, 2025 WL 3496152 (W.D. Mich. Dec. 5, 2025); Garcia Valerio v. Noem, No. 25 C 13648, 2025 WL 3470733 (N.D. Ill. Dec. 3, 2025); Gallegos Valenzuela v. Olson, No. 25-CV-13499, 2025 WL 3296042 (N.D. Ill. Nov. 26, 2025); De Jesus Aguilar v. English, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind. Nov. 25, 2025); Ramirez-Ramirez v. Beuter, No. 25-CV-185-CJW-MAR, 2025 WL 3499057 (N.D. Iowa Dec. 5, 2025); Barron Moncada v. Noem, No. 6:25-CV-3354-MDH, 2025 WL 3458894 (W.D. Mo. Dec. 2, 2025); Romero Santuario v. Bondi, No. 25-4296 (JRT/JFD), 2025 WL 3469577 (D. Minn. Dec. 2, 2025); Ramirez-Ramirez v. Beuter, No. 25-CV-185-CJW-MAR, 2025 WL 3499057 (N.D. Iowa Dec. 5, 2025); Barron Moncada v. Noem, No. 6:25-CV-3354-MDH, 2025 WL 3458894 (W.D. Mo. Dec. 2, 2025); Romero Santuario v. Bondi, No. 25-4296 (JRT/JFD), 2025 WL 3469577 (D. Minn. Dec. 2, 2025); Cruz Valera v. Baltazar, No. 1:25-CV-03744-CNS, 2025 WL 3496174 (D. Colo. Dec. 5, 2025); Medina-Herrera v. Noem, No. CIV-25-1203-J, 2025 WL 3460946

(W.D. Okla. Dec. 2, 2025); Espinoza Ruiz v. Baltazar, No. 1:25-CV-03642-CNS, 2025 WL 3294762 (D. Colo. Nov. 26, 2025); Martinez Diaz v. Holt, No. CIV-25-1179-J, 2025 WL 3296310 (W.D. Okla. Nov. 26, 2025); Garcia Riquis v. Mordant, No. 2:25-CV-1028-SPC-NPM, 2025 WL 3502525 (M.D. Fla. Dec. 5, 2025); Miranda Bravo v. Noem, No. 2:25-CV-1046-SPC-DNF, 2025 WL 3496191 (M.D. Fla. Dec. 5, 2025); Acanda Ceballo v. Parra, No. 25-CV-25271-JB, 2025 WL 3481908 (S.D. Fla. Dec. 4, 2025); J.A.M.M. v. Warden, Stewart Detention Center, No. 4:25-CV-385-CDL-AGH, 2025 WL 3464914 (M.D. Ga. Dec. 2, 2025).

This Court is not required, and should not, give deference to *Matter of Yajure Hurtado*. As discussed in Section I above, in *Loper Bright*, the Supreme Court was clear that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and indeed "may not defer to an agency interpretation of the law simply because a statute is ambiguous." 603 U.S. at 412. Rather, this Court can simply look to the Supreme Court's own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

The text of Sections 1225 and 1226, together with binding Supreme Court precedent interpreting those provisions and the numerous District Court decisions confirm that Petitioner is subject to section 1226(a)'s discretionary detention scheme.

III. Petitioner's detention violates his Fifth Amendment rights.

Petitioner's detention violates his Fifth Amendment Due Process rights because factors under the balancing test set forth in *Mathews v. Eldridge* weighs in Petitioner's favor.

"Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citation omitted). The Fifth Amendment's Due

Process Clause extends to all persons, regardless of status. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025). Thus, noncitizens, such as Petitioner, are entitled to its protections. *See id.*; *see also Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *3 (6th Cir. Jan. 18. 2023).

The Sixth Circuit held that the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), regarding the adequacy of process, applies in the context of immigration detention. *See, e.g.*, *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852–56 (6th Cir. 2020) ("If this court has previously addressed the due-process claim, then we are bound by precedent; if the claim is an issue of first impression, then we generally apply the three-factor test the Supreme Court set out in *Mathews v. Eldridge*."). Under *Mathews*, the Court must consider the following three factors: "(1) the private interest that will be affected by official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos*, 2025 WL 2496379, at *9 (citing *Mathews*, 424 U.S. at 335).

Here, the first *Mathews* factor clearly weighs in favor of Petitioner. Petitioner entered the United States without inspection, but Customs Border and Patrol, Respondent DHS's enforcement agency, apprehended Petitioner and released him into the United States, determining that Petitioner was not a flight risk or danger. Respondents have now detained Petitioner, and there is no dispute that Petitioner has a significant private interest in avoiding detention, as one of the "most elemental of liberty interests" is to be free from detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (citation omitted). The Court may also consider Petitioner's conditions of confinement, i.e., "whether a detainee is held in conditions indistinguishable from criminal incarceration." *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). Petitioner is now detained in

another state, away from his support system, "experiencing [many of] the deprivations of incarceration, including loss of contacts with friends and family, loss of income earning…lack of privacy, and, most fundamentally, the lack of freedom of movement." *See Günaydin v. Trump*, No. 25-cv-01151, 2025 WL 1459154, at *7 (D. Minn. May 21, 2025).

As to the second *Mathews* factor, there is a high risk of erroneously depriving Petitioner of his freedom if Petitioner does not receive an individualized determination regarding his prior release to the United States by CBP. "To mitigate the risk of erroneous deprivation, due process would require, 'at [a] minimum, the opportunity for [Petitioner] to submit evidence relevant to whether [the government] should revoke [his parole] before [it] make[s] a revocation decision.'" *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 153 (W.D.N.Y. 2025) (citation omitted).

Finally, under the third *Mathews* factor, while Respondents do have "a legitimate interest in ensuring noncitizens' appearance at removal proceedings and preventing harms to the community," here, Respondents have not established an interest in regard to detaining Petitioner who may well convince "a neutral adjudicator, following a hearing and assessment of the evidence, that his ongoing detention is not warranted." *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025). Further, continuing to enforce Petitioner's detention would likely impose more costs upon the Government, as it would be required to continue funding and overseeing Petitioner's detention.

Thus, all *Mathews* factors weighs in Petitioner's favor, and Petitioner's current detention violates Petitioner's Fifth Amendment due process rights.

IV. Director Lyons, ICE, Secretary Noem, and Attorney General Bondi Proper Respondents.

The Sixth Circuit has concluded "that a detained alien generally must designate his immediate custodian—the [Immigration and Naturalization Service (INS), the predecessor to the present immigration-related agencies,] District Director for the district where he is being

detained—as the respondent to his habeas corpus petition." *Roman v. Ashcroft*, 340 F.3d 314, 322 (6th Cir. 2003). Here, Petitioner has named the ICE Field Office Director for Detroit, Warden of the North Lake Processing Center in Baldwin, Michigan, Acting Director of ICE, DHS, ICE, Kristi Noem, and Pamela Bondi as Respondents.

In *Roman v. Ashcroft*, the Sixth Circuit stated that although it "conclude[d] that the immediate custodian rule generally applies to alien habeas corpus petitioners, . . . [there is] the possibility of exceptions to this rule." *Roman*, 340 F.3d at 322. Thus, the Sixth Circuit concluded, "an exception might be appropriate if the INS were to exercise its transfer power in a clear effort to evade an alien's habeas petitions." *Id.* at 326.

Here, Petitioner alleges violations of law and application of law by agents of the Department of Homeland Security. Given Director Lyons's, ICE's, Secretary Noem's, and Attorney General Bondi's broad authority over the operation and enforcement of the immigration laws, they are appropriate Respondents for the subject case, and the Court should not dismiss them as Respondents to these proceedings.

V. The Court should prohibit Petitioner's transfer.

Respondents mischaracterize Petitioner's request as raising only a jurisdictional concern. Although a district court may retain jurisdiction over a habeas petition after a petitioner is transferred, *Rumsfeld v. Padilla*, 542 U.S. 426, 440 (2004), that principle does not resolve whether a transfer would impair meaningful habeas review. Jurisdiction alone does not guarantee effective access to the Court or to counsel, particularly where, as here, the petition challenges ongoing detention and requires active litigation during the pendency of proceedings.

A transfer during the pendency of this action would substantially burden Petitioner's access to counsel, disrupt attorney–client communication, and risk delaying or frustrating adjudication of his due process claims. These practical harms are independent of jurisdiction and constitute irreparable prejudice that this Court may properly prevent in aid of its habeas

authority. Because preventing transfer is necessary to protect meaningful review and does not impair the Court's jurisdiction or Respondents' interests, the Court should exercise its equitable authority to prohibit Petitioner's transfer during the pendency of this habeas proceeding.

VI. The Central District of California's recent decision in *Bautista* is applicable to Petitioner.

The Central District of California court in *Maldonado Bautista v. Santacruz*, CV-25-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025) certified a Rule 23(b)(2) class for:

> ***All noncitizens in the United States without lawful status*** *who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination...*
>
> (emphasis added).

Petitioner falls within this class. Thus, Respondents are bound by the declaratory relief granted to class members nationwide in Maldonado Bautista. The fact that the government filed an appeal does not stay the execution of *Maldonado Bautista*. Respondents did not provide any evidence of stay of the decision; thus, the decision is operative and binding.

CONCLUSION

For the foregoing reasons, this Court should order Respondents to immediately release Petitioner, or, alternatively, to schedule a bond hearing for Petitioner's removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order.

Dated: February 18th, 2026

Respectfully submitted,

/s/ Viktoriia Chernova
Viktoriia Chernova, Esq. (NY6178651)
LEX VERITAS, LLC
150 S Wacker Dr., 24th floor
Chicago, IL, 60606
Phone No.: (470) 469-8426
E-Mail: lexveritasllc@gmail.com
Attorney for Petitioner,
Soslan Pliev