UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

CRISTIAN VELASQUEZ RODAS

Petitioner,

vs.

KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY;

BONDI, Pamela, in her official capacity of Attorney General of the United States.

Respondents.

Civil No. 2:26-cv-10675

Honorable Jonathan J.C. Grey
Mag. Judge Anthony P. Patti

REPLY TO RESPONSE IN OPPOSITION

INTRODUCTION

Petitioner entered the United States without permission as a minor in 2021. He was encountered by Customs and Border Patrol (CBP) and transferred to the custody of the Office of Refugee Resettlement's Division of Unaccompanied Children Division. Importantly, he was not offered or given a credible fear interview, he was not questioned about his reasons for entering the United States, and expedited removal proceedings were not commenced. Since then, he has properly submitted his I-360 petition for Special Immigrant Juvenile Status and application for employment authorization, both of which were approved. He has complied with all Immigration and Customs Enforcement (ICE) requirements. He was apprehended by ICE on December 21, 2025.

Respondents cannot and have not attempted to meaningfully contest that 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. 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.

Recent authority further confirms that the Respondents' position is unlawful and underscores why habeas relief remains necessary. On November 25, 2025, the Central District of California certified a nationwide class and granted partial summary judgment holding that DHS's policy violates the INA. *Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025). The court entered final judgment on December 18, 2025. Prior to that judgment, Respondents argued in federal courts that *Bautista* was "non-binding" because it lacked finality.

The *Bautista* Court granted Petitioners' motion to enforce the judgment and expressly vacated *Matter of Yajure Hurtado*, eliminating any remaining basis for Respondents to rely on that decision. Although this order has been stayed for all putative class members outside of the District Court's jurisdiction, the District Court's findings are still instructive. The court documented widespread nationwide noncompliance with its Final Judgment, including hundreds of post-judgment habeas filings and continued reliance on *Yajure Hurtado* by immigration courts. Indeed EOIR has previously instructed immigration judges to continue following *Matter of Yajure Hurtado* because "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin Yajure Hurtado." Additionally, Respondents oppose habeas and continue to rely on *Yajure* despite the *Bautista* court's order expressly vacating the decision. The need for habeas relief therefore remains acute to ensure uniform compliance with the federal court's orders and to protect Petitioner's statutory and constitutional rights.

Because Respondents have refused to honor that nationwide ruling, 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.

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. Detaining a Special Immigrant Juvenile with Deferred Action Is Arbitrary, Contrary to Congressional Design, and Further Confirms the Unlawfulness of Petitioner's Custody

Respondents' response completely ignores the facts that the federal government has already determined that Petitioner is entitled to humanitarian protection under the Special Immigrant Juvenile ("SIJ") provisions of the Immigration and Nationality Act and has granted him deferred action. Those determinations matter. Congress created SIJ status specifically to protect children who have been abused, abandoned, or neglected and for whom reunification with one or both parents is not viable. 8 U.S.C. § 1101(a)(27)(J). Obtaining SIJ classification requires multiple layers of governmental review. A state court must first make detailed factual findings concerning abuse, abandonment, or neglect, and federal immigration authorities must then independently adjudicate and approve the SIJ petition. Petitioner successfully completed that process. USCIS approved his SIJ petition, formally recognizing that he falls within this humanitarian protection framework. The government then went further: DHS granted Petitioner deferred action, an exercise of prosecutorial discretion reflecting the agency's determination that removal should not be pursued while he remains eligible to pursue lawful permanent residence. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999). These decisions represent affirmative governmental determinations that Petitioner should remain in the United States.

Against that backdrop, Respondents' position, that the government may detain Petitioner indefinitely as though he were a newly encountered border applicant, makes little sense. The INA's SIJ framework was designed to allow vulnerable children to remain safely in the United States and eventually adjust status to lawful permanent residence. *See* 8 U.S.C. § 1255(h). The statute eliminates several grounds of inadmissibility and provides a pathway to permanent residence precisely because Congress determined that these individuals merit humanitarian protection. Detaining an SIJ beneficiary who has already been granted deferred action directly undermines that statutory structure. The government cannot simultaneously recognize Petitioner as a protected child eligible for permanent residence, exercise prosecutorial discretion to allow him to remain in the country, and treat him as though he were a border entrant who must be mandatorily detained.

The question before the Court is not whether SIJ constitutes admission; it is whether the government may detain someone whom it has already determined should remain in the United States pursuant to a humanitarian statutory scheme. Nothing in § 1225(b)(2) requires that result. And interpreting the statute to authorize detention under these circumstances would produce precisely the kind of irrational outcome courts seek to avoid when construing statutory schemes.

Petitioner's SIJ classification and deferred action therefore further illustrate the arbitrary nature of his detention. He is not a newly encountered noncitizen seeking entry into the United States. He is an individual whom the federal government has already vetted, granted humanitarian protection, and authorized to remain while pursuing lawful permanent residence. Detaining such an individual, without a bond hearing and without any individualized determination of flight risk or danger, serves no legitimate immigration purpose. It instead reflects the kind of categorical, policy-driven detention that courts have repeatedly rejected when evaluating immigration custody under the Due Process Clause.

At minimum, Petitioner's SIJ status and deferred action underscore the constitutional concerns presented here. When the government has already determined that an individual should remain in the United States and pursue lawful permanent residence, continued civil detention without individualized review is especially difficult to justify under *Mathews v. Eldridge*, 424 U.S. 319 (1976).

B. Petitioner Is Not Properly Detained Under § 1225(b)(2), and 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. 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, while he was encountered by CBP, he was not processed for expedited removal or mandatory detention at that time. Instead, he was transferred to the ORR and released into the interior of the United States. This initial processing confirms that the agency itself did not treat him as an 'applicant for admission' subject to mandatory detention upon entry. DHS cannot now, years afterward, retroactively apply a border-processing statute that requires a contemporaneous determination by an examining officer. Nothing in the INA permits DHS to retroactively convert a previous entry into an "ongoing inspection" to impose border-style detention.

Respondents' statutory argument rests on the premise that any individual who originally entered without inspection must be treated as an "applicant for admission" subject to §

1225(b)(2). But that reading ignores the structure of the INA and the longstanding regulatory framework distinguishing between individuals encountered at the border and those arrested in the interior. Section 1226(a) has long functioned as the default detention authority for noncitizens already present in the United States pending removal proceedings. *See Jennings*, 583 U.S. at 303. Nothing in § 1225(b)(2) compels the sweeping reclassification Respondents now advance, particularly where the agency for decades processed similarly situated individuals under § 1226(a) with access to bond hearings. Respondents' interpretation would collapse the statutory distinction between border applicants and interior detainees and would render § 1226(a) largely superfluous for a broad category of noncitizens, an outcome the Court should reject.

Respondents' reliance on *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), is misplaced. As an initial matter, *Buenrostro* is not binding in this Circuit. More importantly, the Fifth Circuit did not address the precise posture presented here, which is an individual long released into the interior following ORR custody and later subjected to mandatory detention based on DHS's recent policy shift. Nor did *Buenrostro* consider the widespread historical practice, recognized by multiple district courts, of processing similarly situated noncitizens under § 1226(a) with access to bond hearings. At minimum, *Buenrostro* reflects an emerging disagreement among courts regarding the government's novel interpretation of § 1225(b)(2). In this posture, this Court must conduct its own independent analysis of the statutory scheme. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). For the reasons set forth above, the better reading of the INA confirms that Petitioner's detention is governed by § 1226(a), not § 1225(b)(2).

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. Respondents' reading stretches the statutory text beyond its ordinary meaning and conflicts with the settled structural distinction Congress drew between border applicants and interior detainees. 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.

Respondents' fallback argument, that even if Petitioner's detention is governed by § 1226(a), he is not entitled to a bond hearing, fails as a matter of both statute and regulation. Section 1226(a) expressly authorizes release on bond or conditional parole pending removal proceedings, and its implementing regulations provide for individualized custody determinations before an immigration judge. *See* 8 C.F.R. § 1236.1(d). Respondents cannot argue in the alternative that § 1226(a) applies while denying the central procedural protection Congress attached to that provision. To hold otherwise would sever the statute's grant of discretionary release authority from the mechanism that gives it effect, rendering § 1226(a) largely meaningless. Nor can discretionary parole substitute for bond. Parole is an executive tool exercised unilaterally by DHS, whereas bond proceedings provide an adversarial, individualized determination of flight risk and danger before a neutral adjudicator. The government's attempt to replace bond with parole is therefore inconsistent with both the statutory scheme and fundamental due process principles.

C. Petitioner's Mandatory, Indefinite Civil Detention Grossly Violates Due Process.

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. *Thuraissigiam* involved a recent entrant apprehended within yards of the border and placed in expedited removal. *DHS v. Thuraissigiam*, 591 U.S. 103 (2020). It did not concern an individual like Petitioner, who was previously released by CBP, 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. *Yamataya v. Fisher*, 189 U.S. 86 (1903). Interior residents, even if they entered unlawfully, are owed meaningful due process. *Id.* "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' assertion that Petitioner's detention is constitutionally permissible because it is allegedly "finite" misses the point. The relevant question is not merely duration but lawful statutory authority. Where the government detains a noncitizen under the wrong statutory provision, the detention is unlawful regardless of its expected length. *See Jennings v. Rodriguez,* 583 U.S. 281 (2018). Here, the government seeks to impose mandatory detention under § 1225(b)(2) on an individual who, under the statutory framework and decades of uniform practice, falls within § 1226(a). Due process does not permit the government to avoid meaningful custody review simply by labeling detention "finite," particularly where the agency itself has foreclosed access to bond proceedings.

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. *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. Respondents' assertion that detention has been "brief" ignores the open-ended nature of custody in this situation, something the Supreme Court in *Demore v. Kim* explicitly warned against. *Demore v. Kim*, 538 U.S. 510, 529 (2003).

Courts evaluating prolonged interior detention apply the familiar factors set forth in *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.

D. 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. *Thuraissigiam*, 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).

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

Respondents argue that only the warden of the Monroe County Jail is a proper respondent. Petitioner's 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. 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.

CONCLUSION

Respondents' opposition does not identify any lawful basis to continue detaining Petitioner as though he were an applicant for admission. The statutory framework, the agency's longstanding practice, and fundamental due process principles all confirm that Petitioner's custody is governed by 8 U.S.C. § 1226(a), which guarantees access to a bond hearing. Instead of providing that process, Respondents rely on a recently adopted interpretation that eliminates bond jurisdiction altogether and substitutes only the appearance of review.

Nor does Respondents' invocation of out-of-circuit authority or their characterization of detention as "finite" cure the defect. Where detention rests on the wrong statutory authority and meaningful custody review has been categorically foreclosed, habeas relief is both appropriate and necessary. This is particularly true where, as here, Respondents continue to resist the clear direction of the Central District of California and persist in detaining class members under the very framework that court rejected. Because Petitioner is being detained under the wrong statute, denied the bond hearing that § 1226(a) and the Due Process Clause require, and left without any meaningful administrative remedy, the Court should grant this habeas petition. Petitioner respectfully requests that this Court order Petitioner's immediate release, or in the alternative, provide a prompt bond hearing before an immigration judge under § 1226(a).

Dated: March 18, 2026

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