

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**BRAYAN DAVID MACHUCA-
MEJIA,**

Petitioner,

v.

MARY DE ANDA YBARRA, in her Official capacity as, Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, and Removal Operations;

JOHN DOE, in his official capacity as Warden of the El Paso service Processing Center (El Paso Camp East Montana);

KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security;

TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as Attorney General of the United States;

**U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT (ICE);
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW.**

Respondents

Case No: 3:25-CV-00641-DCG

**PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS**

Petitioner, Brayan David Machuca-Mejia, through undersigned counsel, respectfully submits this Reply in support of his Petition for Writ of Habeas Corpus under 28 U.S.C. §2241.

I. INTRODUCTION

Respondents' opposition rests almost entirely on their assertion that Petitioner is an "applicant for admission" detained under 8 U.S.C. § 1225(b)(1), and that this label both eliminates this Court's jurisdiction and justifies months of civil detention with no custody hearing.

But Respondents do not contest the key facts. Petitioner is a 23-year-old citizen of Colombia. He entered the United States in May 2023 and was paroled on June 4, 2023, under INA § 212(d)(5)(A). Thereafter, he lived with his Mother and U.S. citizen stepfather at a fixed address in Miami, Florida, and worked at Pacho's Quality Auto Repair. He has no criminal convictions, only a single July 18, 2025 arrest for a traffic-related offense and resisting without violence; he was released from custody that same day and immediately transferred to ICE. He is in INA § 240 removal proceedings with a pending asylum application and has been detained at El Paso Camp East Montana since July 18, 2025.

On October 15, 2025, an Immigration Judge refused to consider bond at all, citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), denying relief solely on the basis of "no jurisdiction," without any individualized custody determination.

On these undisputed facts, Petitioner challenges his ongoing civil detention and the total absence of any opportunity to contest whether detention is necessary. He does not challenge the decision to commence removal proceedings or any removal order.

Respondents' arguments fail for three reasons. First, this Court has jurisdiction under 28 U.S.C. § 2241 to hear a detention-only habeas petition. Second, Petitioner's present, interior detention while in § 240 proceedings is governed, if at all, by 8 U.S.C. § 1226(a), not § 1225(b)(1).

Third, even if §1225(b)(1) applied, months of confinement with no custody hearing violates the Fifth Amendment as applied.

II. THIS COURT HAS HABEAS JURISDICTION OVER THIS DETENTION-ONLY PETITION

Respondents invoke 8 U.S.C. §§ 1252(b)(9) and 1252(g) and attempt to recharacterize this case as a challenge to the commencement or adjudication of removal proceedings. That is incorrect.

Petitioner accepts that he is in § 240 proceedings and does not ask this Court to review any removal order, credible-fear determination, or any discretionary prosecution decision. He challenges only the legality of his current civil detention and the government's use of a mandatory-detention label to foreclose any custody review. The Supreme Court has made clear that such detention-only claims remain cognizable in habeas. In *Jennings v. Rodriguez*, the Court held that § 1252(b)(9) does not bar “challenges to detention that are independent of challenges to removal orders,” and that § 2241 jurisdiction remains available to test the scope of immigration detention authority. 583 U.S. 281, 294–95 (2018).

Section 1252(g) is “quite narrow,” applying only to the decision to commence proceedings adjudicate cases, or execute removal orders. *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999). Petitioner does not ask this Court to halt or review any of those acts. He seeks review of his continuing confinement, the core concern of the writ of habeas corpus.

Respondents also suggest, implicitly or explicitly, that Petitioner must further exhaust remedies before the immigration courts. But where, as here, an Immigration Judge had expressly refused bond jurisdiction under *Matter of Yajure Hurtado* and *Matter of M-S-*, and DHS has adopted a policy position that Immigration Judges lack authority to consider bond at all for

detainees in Petitioner's posture, further attempts to seek custody in that system would be futile and would not meaningfully address the legality of his ongoing detention.

If Respondents' reading were accepted, virtually all immigration detention would be insulated from habeas review, contrary to *Jennings, Zadvydas v. Davis*, 533 U.S. 678 (2001), and longstanding practice. This Court properly has jurisdiction under 28 U.S.C. § 2241 to decide whether Petitioner's ongoing detention is lawful.

**III. PETITIONER'S PRESENT CUSTODY IS PROPERLY GOVERNED BY
8 U.S.C. § 1226(a), NOT 1225(b)(1)**

Respondents treat Petitioner as if he were still at the border in expedited removal and claim § 1225(b)(1) mandates his detention. That ignores the reality of his current posture.

A. Petitioner's current detention arises from an interior arrest during § 240 proceedings

Petitioner's present confinement began on July 18, 2025, when he was arrested in Miami, Florida, and then detained by ICE. By that time, DHS had already paroled him into the United States; he had been living and working in the interior with his family; and he was in standard § 240 removal proceedings on a Notice to Appear.

The statute that governs this posture is 8 U.S.C. § 1226(a), which authorizes the arrest and detention of a noncitizen "pending a decision on whether the alien is to be removed from the United States" and expressly permits release on bond or "conditional parole." Petitioner is being detained while the government pursues a decision in his § 240 case; that is the situation § 1226(a) was designed to cover.

B. Section 1225(b)(1) does not clearly extend to prolonged, post-parole interior detention without bond

Section 1225(b)(1) addresses specific categories of “applicants for admission” at the threshold, arriving aliens and certain individuals apprehended shortly after entry during expedited removal and credible-fear screening. For years, individuals in Petitioner’s position entry without inspection, placed in § 240 proceedings, detained pending those proceedings were treated as held under § 236(a) (now § 1226(a)) and were eligible to seek bond from an Immigration Judge. Only recently has DHS invoked decisions such as *Matter of M-S-* and *Matter of Yajure Hurtado* to argue that such individuals remain in mandatory detention under § 1225(b) and that Immigration Judges lack bond jurisdiction.

Reading § 1225(b)(1) to cover this new, interior detention months or longer after parole and entry into the interior, with no bond hearing stretches the provision beyond its text and purpose.

C. The recent nationwide judgment in *Maldonado Bautista v. Santacruz* confirms that detainees in Petitioner’s posture are held under § 1226(a)

Since the filing of Petitioner’s habeas petition, a federal court has addressed this statutory question in a closely analogous posture. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal.), the United States District Court for the Central District of California granted partial summary judgment to a class of noncitizens who, like Petitioner, (1) entered without inspection; (2) were not apprehended at the border; and (3) are detained pending removal proceedings but are not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. The court held that such individuals are not properly detained under § 1225(b)(2)(A) as “applicants for admission,” but instead are detained under § 1226 and are therefore eligible for custody-redetermination (“bond”) hearings before an Immigration Judge.

The Bautista court further certified a nationwide “Bond Eligible Class” defined to include noncitizens who entered without inspection, were not apprehended upon arrival, and are not otherwise in mandatory detention. Petitioner appears to fall within that definition: he entered without inspection near Eagle Pass; was paroled and then lived in Miami; was later arrested and detained in the interior; and is not alleged to fall under § 1226(c), § 1225(b)(1), or § 1231. As in Bautista, DHS and the Immigration Judge here have relied on *Matter of Yajure Hurtado* to deny any bond jurisdiction and to treat Petitioner as if he were subject to mandatory detention under § 1225(b).

While Bautista is not binding on this Court, it is persuasive authority confirming that DHS’s expansive use of § 1225(b)(2)(A) to cover interior detainees in § 240 proceedings cannot be reconciled with the statutory structure and improperly nullifies § 1226(a). It reinforces Petitioner’s argument that his current detention is governed, if at all, by § 1226(a), and that he is entitled to an individualized custody determination under that provision.

IV. EVEN IF § 1225(b)(1) APPLIED, PROLONGED DETENTION WITH NO CUSTODY HEARING VIOLATES DUE PROCESS AS APPLIED

Respondents rely heavily on *DHS v. Thuraissigiam*, 591 U.S. 106 (2020), to argue that applicants for admission receive only the procedures specified in § 1225(b). But *Thuraissigiam* addressed the scope of habeas review of expedited-removal and credible-fear determinations, not the constitutionality of prolonged civil detention after parole and re-arrest in the interior.

Petitioner does not ask this Court to revisit any expedited-removal order, credible-fear finding, or asylum determination. He challenges the length and conditions of his present civil confinement and the complete absence of any opportunity ever to contest whether detention is necessary.

Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts assess procedural due process by weighing: (1) the private interest affected; (2) the risk of erroneous deprivation and the probable value of additional safeguards; and (3) the Government's interest, including the burdens of additional procedures.

First, Petitioner's interest in freedom from physical restraint is fundamental. He has been detained since July 18, 2025; he remains confined far from his family in Miami and is unable to work or assist in supporting his household, despite having a fixed address, prior parole, and a pending asylum case.

Second, the risk of erroneous deprivation is extraordinarily high where no adjudicator has ever weighed danger, flight risk, or alternatives to detention. The Immigration Judge expressly refused custody jurisdiction based on *Yajure* and *M-S-*, and made no individualized findings whatsoever. A prompt, individualized custody hearing would directly reduce the risk that Petitioner is being unlawfully detained.

Third, Respondents identify no case-specific need to detain Petitioner without a bond hearing. He has no criminal convictions, only a single non-violent arrest; he previously complied with parole; and he has strong family support and a stable address in Miami. Any legitimate interest in ensuring his appearance or protecting the community can be addressed through bond or conditions of supervision. The administrative burden of providing a bond hearing or supervised release is modest.

On these facts, continuing to confine Petitioner for months with no opportunity ever to contest the necessity of detention does not bear a reasonable relation to any permissible purpose of immigration detention and violates the Fifth Amendment as applied, even if the statutory framework were assumed to be § 1225(b)(1).

V. THE REQUESTED RELIEF IS WITHIN THIS COURT'S HABEAS AUTHORITY

Respondents suggest that habeas cannot result in a bond hearing and is limited to an up-or-down decision on release. That is too narrow a view of the writ. Section 2243 instructs federal courts to “summarily hear and determine the facts, and dispose of the matter as law and justice require” 28 U.S.C. § 2243 (emphasis added). In immigration detention cases, courts routinely exercise that authority by ordering the government either to release the petitioner under appropriate conditions or to provide a custody or bond hearing that satisfies constitutional requirements within a specified time.

Petitioner does not ask this Court to micromanage bond amounts or specific supervision terms. He requests that the Court (1) declare that his continued detention, without any individualized custody determination, is unlawful under the INA and the Due Process Clause; and (2) order Respondents either to provide him, within a time set by the Court, a prompt, individualized custody hearing before a neutral adjudicator, at which the Government bears the burden of proving by clear and convincing evidence that he is a danger or flight risk sufficient to justify continued detention and the adjudicator must consider and make findings on the record regarding less restrictive alternatives to detention, including release on bond or conditions of supervision; or to release him under appropriate conditions of supervision.

That remedy falls squarely within this Court's habeas power and respects both Congress's detention framework and constitutional limits.

VI. CONCLUSION

Petitioner has been detained at El Paso Camp East Montana since July 18, 2025. He has no criminal convictions, strong family and community ties, and a pending asylum application. The

Immigration Judge refused even to consider bond, based solely on an asserted lack of jurisdiction. Respondents now ask this Court to hold that such prolonged, unreviewed detention is unreviewable in habeas and immune from due process scrutiny.

For the reasons set forth in the Petition and this Reply, Petitioner respectfully requests that the Court:

- I. Assert jurisdiction over this § 2241 habeas action;
- II. Hold that Petitioner's continued civil detention is unlawful; and
- III. Grant the writ by ordering either his immediate release under appropriate conditions of supervision, or, in the alternative, a prompt individualized custody hearing consistent with the requirements described above;
- IV. And grant such other and further relief as the Court deems just and proper.

Respectfully submitted,
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