

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

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RAFAEL JOSE ROMERO LOPEZ,

Petitioner,

v.

WARDEN, BLUEBONNET DETENTION  
CENTER,

Respondent.

Civil Action No. 1:25-CV-283-H

**RESPONSE TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS  
UNDER 28 U.S.C. § 2241**

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## I. Introduction

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his recent detention by Immigration and Customs Enforcement (ICE). Petitioner alleges that he cannot be subject to mandatory immigration detention but, rather, is entitled to a bond hearing in immigration court (or even immediate release by order of this Court). But as explained herein, Petitioner is not entitled to any relief.

Petitioner is instead lawfully detained on a mandatory basis as an alien present in the United States without law admission (i.e., as someone who entered the country illegally) under the Immigration and Nationality Act (INA). *See* 8 U.S.C. § 1225(b)(2). To the extent there was ever an ambiguity regarding whether such aliens were entitled to a bond hearing in immigration court, the Board of Immigration Appeals (BIA) resolved that issue in a September 2025 precedential decision holding that immigration courts are not authorized to entertain bond requests by aliens present in the United States without being admitted or paroled, *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and the Fifth Circuit has very recently affirmed the government's understanding of the statute, *Buenrostro-Mendez v. Bondi*, \_\_\_ F. 4th \_\_\_, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Such aliens are instead subject to mandatory detention under § 1225(b)(2) as applicants for admission. The petition should be denied.

## II. Background

Petitioner is a native and citizen of Venezuela who illegally entered the United States on August 29, 2022, without admission or parole. (App. 002). On September 17, 2022, Petitioner was personally served with a Notice to Appear charging him with

inadmissibility under INA §§ 212(a)(6)(A)(i) (present without admission or parole) and 212(a)(7)(A)(i)(I) (no valid entry document). (App. 002). On November 16, 2022, Petitioner was released from custody into the United States pursuant to DHS's discretionary parole authority under INA § 212(d)(5). On October 9, 2025, the immigration court denied Petitioner's application for immigration-related relief and ordered him removed to Venezuela. (App. 008-010). On October 16, 2025, Petitioner appealed the removal order to the Board of Immigration Appeals ("BIA"). (App. 013). On November 4, 2025, Petitioner was re-detained by ICE for the pendency of his removal proceedings. (Dkt. No. 10, ¶ 10).

Meanwhile, Petitioner has also filed this habeas action, in which he argues that she be given a bond hearing for a bond hearing in immigration court, or that he is otherwise entitled to a bond hearing in immigration court (or even outright release) by order of this Court.

### **III. Argument and Authorities**

There was, up until recently, a split among district courts as to whether § 1225 applies to aliens such as Petitioner, or whether § 1226 instead controls (and allows for a bond hearing). The Fifth Circuit, however, has now weighed in and has determined that § 1225 applies to aliens who are present in the country without lawful admission. *Buenrostro-Mendez v. Bondi*, \_\_\_ F. 4th \_\_\_, 2026 WL 323330, at \*1 (5th Cir. Feb. 6, 2026). In light of *Buenrostro-Mendez*, Petitioner's arguments that his detention should be characterized as arising under § 1226 are foreclosed.

Lastly, Petitioner's removal proceedings have not concluded. Since Petitioner appealed the immigration court's decision to the BIA, the order of removal is not final. (App. 013 and *see* 8 C.F.R. § 1241.1(a) ("An order of removal...shall become final...upon dismissal of an appeal by the Board of Immigration Appeals.")). Therefore, Petitioner remains an alien present in the country without lawful admission and subject to mandatory detention without bond under § 1225.

#### **IV. Conclusion**

The petition should be denied.

Respectfully submitted,

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Certificate of Service

On March 11, 2026, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2), to wit, via first-class U.S. mail to Rafael Jose Romero Lopez, Diamondback Correctional Facility, 1000 E. Diamondback Road, Watonga, OK 73772.

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