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THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

Suraj Suraj,

Petitioner,
v.

PAMELA BONDI, United States Attorney
General;
KRISTI NOEM, Secretary of U.S. Department
of Homeland Security;
TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
LAURA HERMOSILLA, Field Office Director,
ICE Seattle Field Office;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;

Case No.: 2:25-CV-02699-TMC

PETITIONER'S RESPONSE TO
FEDERAL RESPONDENTS' NOTICE OF
SUPPLEMENTAL AUTHORITY

Agency File Number:



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I. INTRODUCTION

1. Federal Respondents filed a Notice of Supplemental Authority citing *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). That decision is not controlling in this Court, and it does not resolve the constitutional issues presented in this habeas case. This matter is not presented as a request for a bond hearing or a generalized challenge to detention based solely on duration. Rather, Petitioner challenges the legality of the government's custody under the Fourth Amendment and the Due Process Clause and seeks habeas relief on the ground that Respondents cannot constitutionally justify Petitioner's present detention on this record. *Suraj v. Bondi*, Petition for Writ of Habeas Corpus, ECF No. 1 (W.D. Wash. Dec. 26, 2025) (hereafter Petition, ECF No 1).

II. ARGUMENT

A. LCR 7(n) Limits Supplemental Authority Notices to Authority "Without

2. This Court's Local Civil Rule 7(n) permits a party to submit newly issued authority after briefing but requires that a notice of supplemental authority be filed "without argument." U.S. Dist. Ct. W.D. Wash. Local Civ. R. 7(n) (hereafter, LCR 7(n)). Local Civil Rule 7(n) is not a vehicle for advancing new statutory theories or reopening merits briefing; it exists solely to alert the Court to newly issued authority relevant to arguments already made. See W.D. Wash. Local Civ. R. 7(n); *Carlson v. City of Redmond*, No. 2:22-cv-01739-JNW, at 2 (W.D. Wash. Sept. 9, 2025). Accordingly, this Court should treat the Respondents' notice as a citation-only submission. To the extent the notice contains advocacy beyond a minimal statement of relevance, it should be disregarded as inconsistent with LCR 7(n).

B. Respondents' Notice fails to make the required link between the cited Fifth Circuit Decision and their existing arguments.

1. Respondents assert that the Fifth Circuit “agrees with the government’s position,” but provides no nexus, nor does one exist in their filings. In *Buenrostro-Mendez v. Bondi*, the question before the court was whether § 1225(b) (mandated detention without bond extended to “applicants for admission,” defined under § 1226(a) as “alien[s] present in the United States who ha[v]e not been admitted.” No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026) (quoting 8 U.S.C. § 1225(b)(2)(A).) The Fifth Circuit sided with the Government and finding that non-citizens already within the United States were subject to mandatory detention under 1225(b). *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

2. In contrast, here, Respondents’ filings are silent on the mandatory-detention theory as it was later addressed in *Buenrostro-Mendez v. Bondi*. Federal Respondents’ Notice of Supplemental Authority, ECF No. 14 (W.D. Wash. Feb 09, 2026) (hereafter, Notice, ECF No. 14. Nowhere in the Respondents’ filing is mandatory detention under 8 U.S.C. § 1225(b)(2)(A) presented as an argument, nor has the Respondents made the necessary nexus to the Government’s argument in *Buenrostro-Mendez*. Federal Respondents’ Supplemental brief, ECF No. 13 (W.D. Wash. Dec. 26, 2025) (hereafter, Supplemental, ECF No. 13).

3. Unlike, *Buenrostro-Mendez*, the Respondents never argued that Petitioner was subject to mandatory detention under § 1225(b), Instead, the Respondent’s argued that if Habeas were to be granted, the relief should be in an alternative bond amount, not an immediate release. Federal Respondents’ Response to Petitioners’ Amended Petition, ECF No. 8 at pg. 3 (W.D. Wash. Jan 08, 2026) (hereafter, Respondents’ Response, ECF No. 8). Respondents conceded

“that the Petitioner is a member of the *Rodriguez Vazquez* Bond Denial Class for purposes of this litigation once he seeks a bond redetermination hearing with the immigration court.” ECF No. 8 pg.

2. They further alleged that if this Court were to grant the habeas petition, the appropriate relief would be for Petitioner to be released upon payment of an alternative bond amount, if any, ordered by the immigration court at a bond hearing requested by Petitioner, which would be consistent with the finding in *Rodriguez Vasquez*.” ECF No. 8 pg. 3.

4. Because Respondents did not previously argue that § 1225(b)(2)(A) mandates detention, the Notice is not a proper supplement to the existing briefing; it is an improper attempt at additional merits briefing, which this Court has held to be impermissible. *Carlson*, No. 2:22-cv-01739-JNW, (W.D. Wash. Sept. 9, 2025). Therefore, Respondents introduction of *Buenrostro-Mendez* does not support an existing argument; it attempts to create a new one.

C. Buenrostro-Mendez Is Non-Binding and Conflicts with Controlling District Authority

5. Buenrostro-Mendez is a Fifth Circuit decision and is not binding on this Court. The controlling appellate authority for the Western District of Washington are the Ninth Circuit. Court and the Supreme Court.

6. To the extent Respondents’ notice is intended to influence the Court’s analysis of bond eligibility or statutory detention classification under 8 U.S.C. §§ 1225 and 1226 (as opposed to merely supplying a recent citation), the Fifth Circuit’s interpretation conflicts with the prevailing decision in this District addressing the same question. See *Rodriguez Vazquez v. Bostock*, 802 F. Supp. 3d 1297, (W.D. Wash. Apr. 24, 2025).

7. In *Rodriguez Vazquez v. Bostock*, the Court granted summary judgment to the Bond Denial Class and held that detention under 8 U.S.C. § 1225(b)(2) was unlawful for that

class; this Court declared that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *Rodriguez Vazquez*, 779 F. Supp. 3d 1239.

8. Thus, even if Petitioner’s habeas claims were framed as seeking bond/bond-hearing relief (they are not), *Buenrostro-Mendez* would not be dispositive in this Court. At a minimum, it would present a conflict between an out-of-circuit decision and the most directly relevant authority from this District, as well as many others. Absent controlling Supreme Court or Ninth Circuit authority adopting *Buenrostro-Mendez*’s approach, the Court should not treat Respondents’ supplemental authority as overruling or displacing *Rodriguez Vazquez* or as resolving the bond/statutory-classification issue in this District.

9. Fifth Circuit Judge Dana M. Douglas, in her dissent in *Buenrostro-Mendez* emphasizes that as was stated in the District Court in *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) “almost every district court to consider this issue has concluded, the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application [to noncitizens already present in the United States] for the past three decades support finding that § 1226 applies” *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *25 (5th Cir. Feb. 6, 2026) (Douglas, J., dissenting).

10. Justice Douglas points out that the Government’s definition of “admission” under § 1225(b)(2), would make § 1226 “needless” and “unnecessary” creating “a whirlpool of statutory confusion”.(pg25). Finally, she emphasizes that the Supreme Court has already distinguished § 1225 and § 1226, in *Jennings v. Rodriguez*, writing that aliens seeking admission fall under §1225 while §1226(a) applies to those ‘already in the country’ (id at 30 (quoting

Jennings v. Rodriguez, 583 U.S. 281, 289 (2018)). Finally, Justice Douglas highlights the government's thirty-year practice of applying § 1226, and that the government's now interpretation conflicts with "the whole history of American immigration law." *Id.* at 24.

D. Buenrostro-Mendez Addresses a Statutory Detention-Classification Question Tied to Bond/Bond-Hearing Relief, not Due Process.

11. As cited by Respondents, *Buenrostro-Mendez* addresses whether certain noncitizens are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) (as "applicants for admission") and the consequences that classification has for bond/bond-hearing relief (i.e., whether detainees are in a § 1225 mandatory-detention posture rather than a § 1226 discretionary posture). Respondents' Notice, ECF No. 14.

12. That posture is not the posture presented by Petitioner's pending claims and requested relief. Petitioner does not seek relief on the theory that a bond hearing is required because Respondents have continued to detain Petitioner based solely on information derived from his unlawful stop and arrest. *Suraj v. Bondi*, Reply to Amended Petition, ECF No. 10 (W.D. Wash. Jan 20, 2026) (hereafter Petitioner's Reply, ECF No 10).

13. Petitioner seeks habeas relief because the custody is unlawful under the Constitution based on the seizure/arrest and the process (or lack thereof) used to impose and maintain detention. Petitioner's Reply, ECF No 10.

E. Even If Statutory Detention Provisions Are Discussed, Buenrostro-Mendez Does Not Resolve Petitioner's Fourth Amendment and Due Process Claims

14. Even assuming that the Court finds aspects of the Fifth Circuit's statutory discussion informative, that decision does not determine whether Respondents can lawfully

maintain custody where Petitioner alleges: (1) Fourth Amendment violations relating to the seizure/arrest (including lack of constitutionally sufficient suspicion/probable cause and/or lack of a lawful basis at the initiation of custody), and (2) procedural due process violations in the government's continued deprivation of liberty. See Petitioner's Reply, ECF No 10.

15. Respondents' post-briefing submission of an out-of-circuit statutory decision does not demonstrate that due process was afforded in this case. Absent any showing that the Fifth Circuit decision addresses the constitutional due process questions presented here or explains how Respondents provided notice and a meaningful opportunity for Petitioner to be heard, it is irrelevant to the issue before this Court. Where the government cannot articulate and substantiate a constitutionally adequate basis for continued detention, habeas relief is warranted to remedy unlawful custody.

16. The Court may consider Respondents' supplemental citation without shifting the proper focus of the habeas inquiry: whether Petitioner's present detention is lawful under the Constitution and, if not, what relief is required.

F. Respondents' reliance on statutory detention classifications in another circuit does not eliminate this Court's jurisdiction to adjudicate Petitioner's constitutional custody claims.

17. The Court retains jurisdiction over Petitioner's core habeas claims pursuant to the Suspension Clause of the U.S. Constitution, which provides that '[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.' U.S. Const. Art. I § 9, cl. 2.

G. Respondents' notice of a post-briefing, out-of-circuit statutory decision does not lend support that due process has been followed and is thus not applicable to the case at hand.

18. Petitioner brings this action under 28 U.S.C. § 2241 to test the legality of custody. See 28 U.S.C. §§ 2241, 2243. Petitioner's claims are collateral constitutional challenges to detention and do not seek review of the merits of removability or a final order of removal. Petitioner challenges Respondent's ongoing, unlawful custody over Petitioner's person. Petition, ECF_1, Petitioner's Reply, ECF No 10

19. Due process does not permit arbitrary detention based on unexplained or shifting rationales, as is evident with the Respondents' attempt to change or shift their arguments for Petitioner's unlawful detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004). Where the government cannot identify and support the lawful basis for confinement and fails to provide a minimally adequate process, continued detention violates the Fifth Amendment. *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004) (due process requires "notice of the factual basis" for detention and a "fair opportunity to rebut" before a neutral decisionmaker). *Zadvydas v. Davis*, 533 U.S. 678, 690, 693 (2001) (freedom from physical restraint lies at the heart of due process; protections apply to all "persons," including noncitizens).

20. The Due Process Clause required Respondents to provide notice and a meaningful opportunity for Petitioner to be heard before they made an individualized determination about his custody pursuant to 8 U.S.C. § 1231(a)(3). No such notice and opportunity were provided here. Respondents' notice of a post-briefing, out-of-circuit statutory decision does not does not lend support that due process has been followed and does not resolve the fact-specific constitutional questions presented by Petitioner's record.

III. CONCLUSION

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21. For the foregoing reasons, Petitioner respectfully requests that the Court treat Respondents' Notice of Supplemental Authority as non-dispositive of the constitutional issues presented and proceed to adjudicate Petitioner's pending Fourth Amendment and due process claims without regard to Respondents' improper post-briefing statutory arguments.

Dated: Feb 13, 2026

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