

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

CONCEPCION RAMIREZ LOPEZ

v.

MARY DE ANDA-YBARRA,

Field Office Director at ICE El Paso Field Office;

TODD LYONS, Acting Director of

U.S. Immigration and Customs Enforcement

KRISTI NOEM, Secretary of the U.S.

Department of Homeland Security;

and, **PAMELA BONDI**,

Attorney General of the United States,

in their official capacities

Respondents.

Case No.: 3:26-cv-00011-LS

PETITIONER'S SUPPLEMENTAL BRIEF

Petitioner hereby files this Supplemental Brief in compliance with the Court's Order, and states as follows:

1. Mr. Ramirez entered the United States without admission on or about 2003, was not placed in removal proceedings upon entry but was apprehended by Immigration and Customs Enforcement ("ICE") around September 10, 2025, when he was leaving his home in Dorchester, MA. He is currently detained in El Paso, Texas. Petitioner's detention violates federal law, as well as the Fifth Amendment of the United States Constitution.
2. Under 8 U.S.C. § 1225, "An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission." Applicants for admission are among the individuals who can be

placed in expedited removal, in which case they are subject to mandatory detention. INA § 235(b)(1)(B)(i)(IV).

3. If an applicant for admission is not placed in expedited removal proceedings under INA § 235 or is later placed in removal proceedings under INA § 240, detention is no longer mandatory. In these cases, noncitizens are sometimes released from custody and allowed to remain in the United States for the duration of their proceedings. 8 U.S.C. § 1226 (a).
4. Mr. Ramirez was not detained at the border, and he was neither placed into expedited removal proceedings nor held pending the outcome of such proceedings. He has been living in the United States since his entry, and he has made every effort to abide by the laws of this country. Nonetheless, Mr. Ramirez was recently detained. In addition, he has filed a request for a bond hearing before the Immigration Court. However, bond was denied under a novel interpretation by DHS and DOJ that all individuals who entered the United States unlawfully are considered “applicants for admission” and therefore subject to mandatory detention.
5. The Court in *Jennings* described § 1225 as part of the process that “generally begins at the Nation’s borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). In contrast, the Court explained that § 1226 governs “the process of arresting and detaining” noncitizens who are living “inside the United States” but “may still be removed,” including those “who were inadmissible at the time of entry.” *Id.* at 288. The Court summarized the distinction succinctly: “U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§

1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Id.* at 289.

6. The legislative history of § 1226 reinforces that it governs the detention of noncitizens – like Mr. Ramirez – who were found in the United States after not having applied for admission. Therefore, because Mr. Ramirez’s presence in the United States since his entry in 2003 – following service of his Notice to Appear – has been under § 1226, the interpretation applied by Respondents is unlawful.
7. Mr. Ramirez’s detention by DHS violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution. Immigration detention violates due process if it is not reasonably related to the purpose of ensuring a noncitizen’s removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92, 699-700 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and is unlawful. *See id.* at 699-700.
8. The Supreme Court has also established the principle that noncitizens in deportation or removal proceedings are just as entitled to due process protections as anyone else. *See Zadvydas*, 533 U.S. at 690 (2001) (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment’s Due Process Clause forbids the Government to ‘depriv[e]’ any ‘person . . . of . . . liberty . . . without due process of law.’”))

9. In *Thuraissigiam*, the Supreme Court reinforced the limited protections for individuals seeking initial entry to the United States, but it creates a clear distinction between noncitizens who are trying to enter the country from those who have already entered the country and established ties to the U.S. *DHS v. Thuraissigiam*, 591 U.S. 104, 114 (2020). The Supreme Court concludes that “an alien who is detained shortly after unlawful entry cannot be said to have ‘effected an entry’... For due process purposes, he stands on the threshold of initial entry, and his constitutional rights are limited accordingly.” *Id.* at 114. However, for individuals already in the United States, the Court in *Thuraissigiam* reaffirmed *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) and *Zadvydas*, stating that “while aliens who have established connections in this country have due process rights in deportation proceedings, the same is not true for an alien at the threshold of initial entry” *Id.* at 113.
10. Accordingly, to vindicate Petitioner’s statutory and constitutional regulatory rights, this Court should grant the Petitioner’s petition for a writ of habeas corpus. Mr. Ramirez requests that this Court immediately release him from detention and enjoin the Respondents from re-detaining him unless there are changes in the circumstances that would justify detention.

Date: February 12, 2026

Respectfully submitted,

/s/ Fernanda Romeiro

Fernanda Romeiro, Esq.

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CERTIFICATE OF SERVICE

I, Fernanda Romeiro, hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the NEF (NEF), and paper copies will be sent to those indicated as non-registered participants.

Dated: February 12, 2026

/s/ Fernanda Romeiro
Fernanda Romeiro, Esq.

