

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

Joselin Daniel CARRANZA-MEJIA,
Petitioner,

v.

Kristi NOEM, et al.,

Respondents.

Case No. CIV-26-0076-SLP

**PETITIONER'S PARTIAL OBJECTION TO THE REPORT AND
RECOMMENDATION AND REPLY TO RESPONDENTS' OBJECTIONS**

Petitioner, by and through his undersigned counsel, respectfully submits this Partial Objection to the Report and Recommendation and Reply to Respondents' Objections.

I. 8 USC § 1225 vs. §1226(a)

Petitioner does not object to the Magistrate's finding that the Court has jurisdiction and that Petitioner is entitled under § 1226(a) to a prompt individualized bond hearing before a "neutral IJ."¹ Petitioner candidly informs the Court that on February 6, 2026, the Fifth Circuit Court of Appeals decided the matter to the contrary in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, (5th Cir. Feb. 6, 2026). Respondents have also submitted the new case in their objection and reiterated their arguments previously briefed on the matter. Petitioner rests on the arguments already presented, respectfully reminds this Court that it is not bound by the Fifth Circuit, and requests this Court adopt the Magistrate's finding that Petitioner is entitled to a a bond hearing under § 1226(a).

II. DUE PROCESS

Petitioner objects, and preserves for the record, the Magistrate's recommendation to decline to decide Petitioner's constitutional due process claims. Petitioner would rather address them now. Mandatory, no-bond detention under Respondents' theory raises serious Fifth Amendment concerns -- especially in current days where thousands of noncitizens are being detained without opportunity of custody review. In *Zadvydas v. Davis*, 533 U.S.

¹ Doc. 11 p. 24

678 (2001), the Supreme Court held that the Due Process Clause prohibits prolonged detention absent a reasonable relation to removal.

Importantly, the recent Fifth Circuit case decided the *statutory* claim in favor of mandatory detention, but the panel did not decidedly reach the due process question and remanded in part. *Buenrostro-Mendez v. Bondi*, No. 25-20496, Doc 213-1, p. 21 (5th Cir. Feb. 6, 2026). Three days later, the U.S. District Court for the Western District of Texas determined that redetention is a due process violation and granted a habeas petition finding that the Petitioner "is being detained in violation of his *constitutional right to procedural due process*." See *Duran Aguila*, 26-cv-0241-KC (W.D.TX February 9, 2026)(emphasis added). Citing *Buenrostro-Mendez v. Bondi*, the *Duran Aguila* Court found:

[T]he *Buenrostro-Mendez* court did not reach the due process question, confining its analysis and holding to statutory interpretation. See generally *Buenrostro-Mendez*, 2026 WL 323330, at *1–10. And the case was remanded to the district court, not for dismissal, but “for further proceedings consistent with this opinion.” *Id.* at *10. Presumably, those further proceedings will entail consideration of *Buenrostro-Mendez*’s due process claim, which the district court declined to reach in the first instance. *Buenrostro-Mendez v. Bondi*, No. 25-cv-3726, 2025 WL 2886346, at *3 n.4 (S.D. Tex. Oct. 7, 2025). Indeed, the Government’s counsel stated it bluntly during oral argument: “We have one issue before the Court now: the statutory question. There’s not, in other words, a due process claim here.” Oral Argument, *Buenrostro-Mendez v. Bondi*, No. 25-20496, at 44:56–45:11 (5th Cir. Feb. 3, 2026), available at https://www.ca5.uscourts.gov/OralArgRecordings/25/25-20496_2-3-2026.mp3.

In sum, *Buenrostro-Mendez* has no bearing on this Court’s determination of whether *Duran Aguila* is being detained in violation of his constitutional right to procedural due process.

Thus, after careful consideration of the entire record,¹ and for reasons explained at length in *Lopez-Arevelo*, *Santiago, Martinez*, *Erazo Rojas*, *Lala Barros*, and this Court’s many other decisions involving habeas claims brought by petitioners subject to mandatory detention under the

Government's new interpretation of 8 U.S.C. § 1225(b), Duran Aguila's Petition is **GRANTED IN PART** on *procedural due process* grounds.

Duran Aguila, 26-cv-0241-KC, 3-4 (W.D.TX February 9, 2026)(Emphasis added).

Finally, Petitioner objects to the recommendation that should this Court order a bond hearing, the Court decline to require the Immigration Judge comply with due process requirements on ability to pay and that bonds cannot be constructively denied. Due Process rights are guarded in all aspects of proceedings. Immigration Judges are not Article III Judges and do not have the same Constitutional independence as judges in the federal judiciary.

The Report and Recommendation errs by characterizing Petitioner's procedural due process claim as "unripe" on the theory that any constitutional violation would depend on a speculative future bond amount. Petitioner does not ask this Court to predict or modify a future bond determination. Rather, Petitioner challenges the constitutionality of the procedures governing the bond hearing that presently authorizes his continued detention.

Because detention continues and the bond hearing is the sole mechanism by which that detention is justified, the alleged procedural defects constitute a present and ongoing injury appropriate for judicial review. 8 U.S.C. § 1226(e) does not bar this claim. Section 1226(e) precludes *review* of discretionary bond determinations; it does not isolate unconstitutional procedures from habeas review. Federal courts routinely distinguish between impermissible review of discretionary outcomes and permissible review of whether the agency applied the correct constitutional framework.

A recent district court order confronting materially similar arguments expressly rejected both the ripeness and jurisdictional objections raised here, holding that § 1226(e) does not divest

courts of habeas jurisdiction over constitutional challenges to bond hearing procedures and that such claims present a live case or controversy while detention persists.² Petitioner's request for limited procedural safeguards—such as consideration of ability to pay and alternatives to detention—does not ask this Court to set or revise bond. It asks only that the hearing comport with due process. That claim is ripe, reviewable, and within this Court's jurisdiction.

VI. CONCLUSION

In sum, Petitioner does not object to the Magistrate's finding that the Court has jurisdiction and that Petitioner is entitled under § 1226(a) to a prompt individualized bond hearing before a neutral IJ. He merely objects to the Magistrate's declination to decide the Due Process aspects of the case as well as due process safeguards if a bond hearing is ordered.

DATED this 12th of February 2026.

Respectfully submitted,

s/Kelli J. Stump
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² See *W.T.M. v. Bondi*, 25-cv-02428-RAJ (W.D. Wash. 01/30/2026).

CERTIFICATE OF SERVICE

This is to certify that on February 12, 2026, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a notice of electronic filing to counsel of record:

Sarah.McMurray@usdoj.gov

/s/ Kelli J. Stump
Kelli J. Stump