FILED
FEB 24 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ELIMAR TERESA BRITO MEJÍAS,
Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
Jose Rodriguez. Jr., Field Office Director, San Antonio Field Office, United States Immigration and Customs Enforcement;
FACILITY ADMINISTRATOR, ICE PROCESSING CENTER

Respondents.

Civil Action No. 5:26-cv-00212-JKP

Immigration No. A [redacted]

1. PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Elimar Teresa Brito Mejías respectfully submits this Reply to Respondents' Response to the Petition for Writ of Habeas Corpus.

I. *Buenrostro-Mendez* Does Not Authorize Mandatory Detention of Petitioner

2. Respondents' reliance on *Buenrostro-Mendez v. Bondi*, ___ F.4th ___ (5th Cir. 2026) is misplaced. That decision addressed detention under INA § 235(b), 8 U.S.C. § 1225(b) for individuals treated as applicants for admission. It did not hold that all noncitizens arrested in the interior of the United States are subject to mandatory detention. Nor did it authorize DHS to reclassify individuals already placed in full removal proceedings under §240 as "arriving aliens" for custody purposes.
3. Petitioner's posture is materially different:
    a) She entered the United States in January 2022.
    b) She lived openly in the interior for years.
    c) She was arrested in Florida—not at the border.

d) She was served with a Notice to Appear initiating §240 proceedings.

e) She is not charged as an arriving alien.

f) She has no criminal convictions triggering §1226(c).

4. Under the plain language of the INA, detention pending §240 proceedings falls under INA § 236(a), 8 U.S.C. § 1226(a), which expressly authorizes release on bond.
5. The Supreme Court has confirmed that §§1225 and 1226 are distinct detention schemes. *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018). Section 1225 governs applicants for admission; §1226 governs detention of persons already present and placed in removal proceedings.
6. The Fifth Circuit likewise recognizes that detention authority depends on statutory posture—not agency labeling. See *Zadvydas v. Davis*, 533 U.S. 678 (2001) (reviewing post-removal detention under statutory limits applicable in this Circuit); *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006) (recognizing habeas jurisdiction to review statutory detention authority); *Oyedeji v. Ashcroft*, 332 F.3d 444 (5th Cir. 2003) (acknowledging constitutional limits on civil detention in immigration context).
7. Nothing in *Buenrostro* collapses the statutory boundary between §§1225 and 1226. Respondents' argument would effectively erase §1226(a) for interior arrests.

II. Temporary Protected Status Places Petitioner Outside the Definition of an "Arriving Alien"

8. Petitioner is a beneficiary of Temporary Protected Status under 8 U.S.C. §1254a and a member of the class in: *Noem v. National TPS Alliance*, 606 U.S. ____ (2025).
9. TPS is a statutory immigration status created by Congress that confers:
   - Lawful presence
   - Employment authorization
   - Protection from removal during designation
   - Registration and vetting by DHS
10. An "arriving alien" is one seeking admission into the United States. A TPS holder is, by definition, already present and lawfully permitted to remain during designation. Congress did not create TPS only to allow DHS to later redefine beneficiaries as applicants for admission for detention purposes.
11. The Supreme Court in *Noem* held that the Secretary has statutory authority to terminate TPS consistent with congressional delegation. But the Court did not hold

that TPS beneficiaries may be retroactively reclassified as arriving aliens. Nor did it authorize DHS to override statutory detention classifications.

12. Even if the Executive may end TPS prospectively, that authority does not transform an interior TPS holder—already placed in § 240 proceedings—into a § 1225(b) applicant for admission.
13. The government may terminate TPS under the statute. It may not use that authority to rewrite detention provisions.
14. This case does not challenge the Secretary's authority to terminate TPS; it challenges only the statutory basis for Petitioner's continued detention.

III. TPS and § 1225(b) Cannot Be Harmonized Without Preserving § 1226(a) Custody

15. Even assuming arguendo that the Secretary possesses authority to terminate TPS designations under *Noem v. National TPS Alliance*, 606 U.S. ____ (2025), that authority does not resolve the statutory custody question presented here.
16. The Immigration and Nationality Act must be read as a coherent whole. See *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (statutes must be interpreted to fit harmoniously within the overall statutory scheme). Section 1225(b) governs applicants for admission. Section 1226 governs detention pending removal proceedings of noncitizens already present in the United States.
17. Temporary Protected Status is codified at 8 U.S.C. § 1254a. Congress expressly provided that a TPS beneficiary:
    - "shall not be removed" during the designated period, § 1254a(a)(1)(A);
    - shall receive employment authorization, § 1254a(a)(1)(B);
    - and shall be considered as maintaining lawful status for defined purposes, § 1254a(f).
18. A TPS beneficiary is therefore not situated as a person standing at the threshold seeking admission. Congress created TPS to permit continued presence within the United States during designated humanitarian crises. That statutory design is fundamentally incompatible with categorical treatment as an "arriving alien" under § 1225(b).
19. Nothing in *Noem* authorizes DHS to retroactively reclassify TPS beneficiaries as applicants for admission for detention purposes. Authority to terminate TPS prospectively does not equate to authority to collapse detention classifications

established elsewhere in the INA. Detention authority must derive from the applicable custody provision—either § 1225 or § 1226—based on the individual's statutory posture, not on agency relabeling.

20. Here, Petitioner was arrested in the interior, served with a § 240 Notice to Appear, and placed into ordinary removal proceedings. She was not placed in expedited removal, not apprehended at a port of entry, and not charged as an arriving alien. To treat her as subject to § 1225(b) would require disregarding both her procedural posture and Congress's TPS framework.
21. At minimum, the TPS statute creates serious tension with categorical mandatory detention under § 1225(b). Where two statutory provisions appear to conflict, courts must interpret them to preserve both if possible. *Brown & Williamson*, 529 U.S. at 133. Reading § 1226(a) to govern custody of interior TPS beneficiaries harmonizes the detention provisions with § 1254a and preserves congressional intent.
22. If ambiguity remains, the canon of constitutional avoidance reinforces that interpretation. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Construing § 1225(b) to mandate detention of a long-term TPS beneficiary placed in § 240 proceedings would raise serious due process concerns and expand mandatory detention beyond the narrow categories Congress identified.
23. Accordingly, even in light of *Noem*, TPS status places Petitioner outside the limited class of individuals Congress subjected to categorical detention under § 1225(b). The governing custody provision remains § 1226(a), which entitles her to an individualized bond hearing.
24. This narrow holding would preserve the Fifth Circuit's decision in *Buenrostro* while faithfully applying the statutory framework to the materially different facts presented here.

IV. DHS Cannot Redefine Statutory Posture Through Administrative Labeling

25. Respondents' position depends entirely on semantic recharacterization. But statutory custody authority turns on legal posture—not agency terminology.
26. Petitioner:
    a) Was not paroled into the United States.
    b) Was not apprehended at the border.
    c) Was not placed in expedited removal.
    d) Was served with a §240 Notice to Appear.

27. Under § 1226(a), the Attorney General "may release" a detainee on bond pending removal proceedings. That is the governing provision.
28. Courts within this Circuit repeatedly recognize that misclassification of detention authority is reviewable in habeas. See *Andrade*, 459 F.3d at 543; *Oyedeji*, 332 F.3d at 446.
29. If DHS could redefine any interior resident—including a TPS beneficiary—as an "arriving alien," § 1226(a) would become meaningless. Congress drew a line between admission screening and post-entry removal proceedings. The Executive cannot erase it. *Buenrostro* did not authorize that expansion.

V. Constitutional Limits Independently Require an Individualized Bond Hearing

30. Even if statutory ambiguity existed, which it does not, prolonged civil detention without individualized review raises serious constitutional concerns.
31. The Fifth Circuit has recognized that immigration detention remains civil and subject to constitutional limitation. See *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510 (2003) (upholding limited mandatory detention only in narrowly defined criminal contexts).
32. Petitioner:

- Has work-authorization.
- Has no qualifying criminal history.
- Has strong community ties.
- Is not charged as an arriving alien.
- Remains under TPS protections pending lawful termination.

33. Mandatory detention is the exception in immigration law. The default under §1226(a) is individualized custody review.
34. The government has made no individualized finding that Petitioner is a danger or flight risk. Continued detention based solely on categorical misclassification violates both the INA and the Fifth Amendment.

VI. Conclusion

35. The government may have authority to terminate TPS under *Noem v. National TPS Alliance*, 606 U.S. ____ (2025). But it does not have authority to convert a long-term TPS holder arrested in the interior and placed in §240 proceedings into an "arriving alien" for purposes of mandatory detention under §1225(b).

36. *Buenrostro-Mendez* does not apply. The INA's plain language controls: §1226(a) governs, and Petitioner is entitled to an individualized bond hearing.

VII. RELIEF REQUESTED

37. Petitioner respectfully requests that this Court:

a. Grant the Petition for Writ of Habeas Corpus;

b. Order Respondents to provide Petitioner with an individualized bond hearing under 8 U.S.C. §1226(a) within seven (7) days;

c. At that hearing, require that the Government bear the burden of proving by clear and convincing evidence that continued detention is justified under the Constitution and is narrowly tailored to a lawful regulatory purpose;

d. Require that the Immigration Judge consider conditions of release as an alternative to continued detention;

e. Require that any denial of bond be supported by specific written findings based on record evidence; and

f. Order Petitioner's release if such a hearing is not conducted within the time prescribed.

Respectfully submitted,

Elimar Brito

Elimar Teresa Brito Mejías

Petitioner, Pro Se

VIII. CERTIFICATE OF SERVICE

I certify that on this date I served a copy of this Response by U.S. Mail to the following addresses:

Date: 02/20/2026

Signature: Elimar Bâta
Petitioner, Pro Se

United States Attorney's Office
Western District of Texas
601 NW Loop 410, Suite 600
San Antonio, Texas 78216

Facility Administrator (Immediate Custodian)
Dilley Immigration Processing Center
300 El Rancho Way
Dilley, Texas 78017

Todd M. Lyons
Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, D.C. 20536

Office of the Principal Legal Advisor (OPLA)
U.S. Immigration and Customs Enforcement
Dilley Immigration Processing Center
300 El Rancho Way
Dilley, Texas 78017

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530-0001

Kristi Noem
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528