FILED
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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

SAN ANTONIO DIVISION

CARIDAD MOLANO HERNANDEZ,	**§A#** [redacted]
Petitioner, Pro Se,	§
v.	**§5:26-cv-00217**
KRISTI NOEM, Secretary, U.S. Department of Homeland	§
Security, et al.,	§
Respondents.	

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE

I, Caridad Molano Hernandez, respectfully submit this Reply addressing Respondents' Response and clarifying the constitutional nature of this habeas corpus proceeding.

This action does not challenge removal proceedings, asylum determinations, or any immigration adjudication currently pending before the Board of Immigration Appeals ("BIA"). Those matters remain within the immigration system. This Petition challenges only my **ongoing physical detention**, which has now lasted nearly nine months, and which violates the Due Process Clause of the Fifth Amendment.

The writ of habeas corpus exists precisely to permit judicial review of executive detention occurring within the sovereign territory of the United States. This case presents that traditional constitutional question.

I. FEDERAL COURTS RETAIN HABEAS JURISDICTION OVER EXECUTIVE IMMIGRATION DETENTION

Respondents may attempt to frame this action as an indirect challenge to immigration proceedings. That framing misunderstands the nature of habeas corpus jurisdiction.

The Supreme Court has long distinguished challenges to removal orders from challenges to physical custody itself. Habeas corpus historically functions to test the legality of detention imposed by the Executive Branch, independent of the underlying administrative proceedings. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

In *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004), the Court reaffirmed that habeas jurisdiction lies wherever a petitioner challenges present physical confinement imposed by executive authority.

Most importantly, *INS v. St. Cyr*, 533 U.S. 289, 301 (2001), reaffirmed the "strong presumption in favor of judicial review" through habeas corpus absent an explicit congressional statement eliminating jurisdiction. The Court emphasized that the writ historically extends to noncitizens challenging executive detention and that constitutional avoidance principles require courts to preserve habeas review wherever possible.

Nothing in the immigration detention statutes eliminates federal courts' authority to review the legality of ongoing custody.

The structural importance of habeas corpus was further emphasized in *Boumediene v. Bush*, 553 U.S. 723, 739 (2008), where the Court explained that the writ serves as a fundamental separation-of-powers safeguard ensuring that liberty does not depend solely upon executive discretion. The judiciary must remain capable of determining whether detention remains lawful at the present moment, not merely whether authority once existed.

Because this Petition challenges detention rather than removal, jurisdiction under 28 U.S.C. §2241 is proper.

II. THE FIFTH AMENDMENT REQUIRES CONTINUING JUSTIFICATION FOR CIVIL DETENTION

The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. These protections apply to all persons physically present in the United States.

Immigration detention is civil in nature. Its constitutional validity depends upon maintaining a reasonable relationship to legitimate regulatory purposes rather than punishment.

In *Foucha v. Louisiana*, 504 U.S. 71, 79 (1992), the Supreme Court held that even where confinement begins lawfully, continued detention becomes unconstitutional once it no longer bears a reasonable relation to its original purpose. The Court rejected the notion that initial legality permits indefinite continuation without renewed justification.

This principle governs immigration detention. Lawful initial custody cannot substitute for ongoing constitutional necessity.

Here, I voluntarily appeared at a scheduled ICE check-in and was taken into custody despite full compliance with supervision requirements. No new misconduct or individualized factual change justified renewed confinement. Due process therefore requires courts to examine whether continued detention remains constitutionally reasonable today.

III. PROLONGED DETENTION OF NEARLY NINE MONTHS TRIGGERS HEIGHTENED CONSTITUTIONAL SCRUTINY UNDER ZADVYDAS

The Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), provides the central constitutional framework governing prolonged immigration detention.

The Court recognized that freedom from physical restraint lies at the core of liberty protected by due process and held that civil immigration detention may not continue indefinitely without sufficient justification. The Court explained that detention becomes constitutionally suspect when its duration becomes excessive or its endpoint uncertain.

Although *Zadvydas* addressed post-removal-order detention, its reasoning rests on broader constitutional principles applicable to all civil confinement: detention must remain reasonably related to its regulatory purpose and cannot become punitive in effect.

My detention has now approached nine months while my appeal remains pending before the BIA. Removal cannot occur during appellate review, and the duration of detention depends entirely on administrative timelines outside my control.

Courts have recognized that detention cannot be prolonged merely because a noncitizen exercises lawful appellate rights. See *Hechavarria v. Sessions*, 891 F.3d 49 (2d Cir. 2018). The pursuit of legal remedies cannot itself justify extended confinement.

Under *Zadvydas*, such indeterminate detention requires judicial scrutiny.

IV. JENNINGS CONFIRMS THAT CONSTITUTIONAL HABEAS REVIEW REMAINS AVAILABLE

Respondents may rely on statutory detention authority. However, *Jennings v. Rodriguez*, 583 U.S. 281 (2018), does not eliminate constitutional review.

Jennings addressed statutory interpretation and rejected certain implied bond-hearing requirements as matters of statutory construction. Crucially, the Court declined to resolve

constitutional due process challenges, expressly leaving those questions open for habeas litigation.

Thus, Jennings preserved, rather than eliminated, habeas corpus as the mechanism through which courts evaluate prolonged detention under the Constitution.

This Petition presents precisely the constitutional inquiry Jennings left unresolved.

V. BUENROSTRO ADDRESSES STATUTORY CLASSIFICATION — NOT CONSTITUTIONAL LIMITS ON DETENTION

Respondents may rely on *Buenrostro-Mendez v. Bondi*. That reliance does not resolve the constitutional issue presented here.

Buenrostro analyzed statutory detention authority and bond eligibility under INA §1225. The Fifth Circuit addressed classification questions concerning detention at the outset of proceedings. It did not hold that prolonged detention becomes immune from constitutional review.

Nothing in Buenrostro eliminates habeas jurisdiction or authorizes indefinite civil confinement without constitutional scrutiny.

Even where statutory detention authority exists, federal courts retain independent responsibility to determine whether continued confinement remains consistent with the Fifth Amendment.

This Petition does not seek a statutory bond hearing prohibited by Buenrostro. Instead, it presents the independent constitutional question left unanswered by that decision: whether prolonged executive detention, as applied over time without individualized justification, remains constitutionally permissible.

VI. DEMORE v. KIM SUPPORTS REVIEW BECAUSE DETENTION HERE IS NO LONGER BRIEF

Respondents may cite *Demore v. Kim*, 538 U.S. 510 (2003). However, Demore upheld detention only because it was expected to be brief and finite.

The Supreme Court relied heavily on statistics showing detention lasting approximately one to five months during removal proceedings. The constitutional analysis depended on that limited duration.

Nearly nine months of detention while appellate review remains pending exceeds the assumptions underlying Demore. When detention extends beyond the brief period contemplated by the Court, renewed constitutional scrutiny becomes necessary.

Thus, Demore supports judicial review rather than foreclosing it.

VII. RE-DETENTION FOLLOWING COMPLIANCE DEMONSTRATES ABSENCE OF PRESENT NECESSITY

My detention began after voluntary compliance with ICE supervision requirements.

The government previously permitted my liberty and later re-detained me without identifying new individualized facts. When the government releases an individual after evaluation and later re-detains without changed circumstances, due process requires renewed justification.

Civil detention must be based on present necessity, not administrative reconsideration alone.

VIII. SERIOUS MEDICAL CONDITIONS HEIGHTEN THE DUE PROCESS CONCERNS

I suffer from multiple chronic medical conditions, including thyroid instability requiring medication monitoring, cardiac irregularities requiring testing, respiratory illness requiring inhalers, mobility impairment following falls, and chronic gastritis aggravated by stress.

The constitutional inquiry is not limited to whether minimal treatment exists. Courts must evaluate whether continued confinement remains reasonable given medical vulnerability and prolonged duration.

Prolonged detention that exacerbates serious health conditions further undermines the regulatory purpose of civil custody.

IX. THE BIA CANNOT PROVIDE CONSTITUTIONAL RELIEF AND EXHAUSTION IS NOT REQUIRED

The Board of Immigration Appeals lacks authority to order release based on constitutional violations.

Under *McCarthy v. Madigan*, 503 U.S. 140, 147–48 (1992), exhaustion is not required where the agency cannot grant the requested relief. See also *Bowen v. City of New York*, 476 U.S. 467, 483 (1986).

Habeas review is therefore appropriate.

X. AS-APPLIED FIFTH AMENDMENT VIOLATION

This Petition presents an as-applied constitutional challenge.

I remain detained inside the United States for nearly nine months without individualized judicial reassessment of necessity while appellate proceedings continue outside my control.

The Constitution requires courts to examine detention as it operates in reality. Under these circumstances, continued confinement risks becoming punitive and inconsistent with due process.

XI. HABEAS CORPUS REMAINS THE TRADITIONAL SAFEGUARD AGAINST EXECUTIVE DETENTION

Habeas corpus ensures that executive detention remains subject to judicial oversight.

Courts within this District have reaffirmed this principle. See *Arias v. Noem*, Civil Action No. SA-26-CV-415-FB (W.D. Tex. Jan. 31, 2026), recognizing habeas corpus as a vital constitutional safeguard against unlawful immigration detention.

XII. CONCLUSION

This case presents a single constitutional question:

Whether nearly nine months of civil immigration detention, imposed after voluntary compliance, maintained during pending appellate proceedings, and unsupported by renewed individualized justification, may continue consistent with the Fifth Amendment.

For these reasons, I respectfully request that the Court:

1. Deny Respondents' request for dismissal;
2. Grant habeas relief and order release; or
3. Alternatively, order an individualized custody determination consistent with due process.

Final Constitutional Statement

The Constitution protects the privilege of the writ of habeas corpus to ensure that liberty does not depend solely upon executive discretion. Even where immigration statutes authorize detention, the Fifth Amendment imposes independent constitutional limits requiring judicial oversight when confinement becomes prolonged and constitutionally unreasonable.

Respectfully submitted,

Caridad Molano Hernandez

A# [redacted]

Pro Se

Date: 03/06/2026

Signature: _____

PETITIONER'S MOTION REQUESTING COURT ASSISTANCE WITH SERVICE

I, CARIDAD MOLANO HERNANDEZ, Petitioner, respectfully request that this Court assist with service of filings upon Respondents due to my current immigration detention and limited ability to effect service personally. I am presently detained in immigration custody and do not have practical access to mailing services, copying resources, or the means necessary to complete formal service upon all Respondents. My detention substantially restricts my ability to comply with ordinary service requirements despite my good-faith efforts to prosecute this action. This habeas corpus proceeding challenges ongoing physical detention, and timely service is necessary to ensure that the Court's review proceeds without unnecessary delay. Because I am proceeding while detained, I respectfully request the Court's assistance to ensure that Respondents receive copies of my filings through electronic notification or any other method the Court deems appropriate. Federal courts possess inherent authority to facilitate service where a detained petitioner lacks the practical ability to complete service independently, particularly in habeas proceedings involving challenges to present custody. Accordingly, I respectfully request that the Court direct the Clerk of Court to transmit copies of my filings to Respondents through the Court's electronic filing system or by any alternative method deemed appropriate by the Court.

WHEREFORE, I respectfully request that this Court:

Direct the Clerk of Court to provide copies of Petitioner's filings to Respondents; and

Respectfully submitted,

CARIDAD MOLANO HERNANDEZ

A# [redacted]

Date: 03/06/2026

Signature: _____

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, I served a true and correct copy of the foregoing by placing it in the institutional mail system for delivery to the following:

United States District Court

Attn: Clerk of Court

Western District of Texas

262 W. Nueva Street, Suite 400

San Antonio, Texas 78207

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: __ [redacted] _____