

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

ZULEIMA ANDREA QUISHPI MOROCHO,

*Petitioner,*

v.

DORA CASTRO, in her official capacity as Warden of the Otero County Processing Center; MARY DE ANDA-YBARRA, in her official capacity as Field Office Director, El Paso Field Office, U.S. Immigration and Customs Enforcement; TODD M. LYONS, in his official capacity as Director of Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,

*Respondents.*

Case No. 2:26-cv-00135-SMD-KK

REPLY IN SUPPORT OF PETITION  
FOR WRIT OF HABEAS CORPUS

Petitioner Zuleima Andrea Quishpi Morocho respectfully submits this reply in support of her petition for writ of habeas corpus ordering Respondents to release Petitioner and return her home to Minneapolis immediately.

**ARGUMENT**

Respondents submit nothing in response to Ms. Quishpi Morocho's petition to rebut that her detention is unlawful. The only remaining question, then, is what remedy is proper. Based on the undisputed facts, Petitioner's **immediate release**, not a bond hearing, is the correct remedy because Ms. Quishpi Morocho possesses a protected liberty interest in remaining free from detention—a right the government has violated by her current re-detention.

Ms. Quishpi Morocho came to this country on or about August 22, 2023. (Pet. ¶ 43). She turned herself in to U.S. Customs and Border Protection officers near the Southern border, where she was processed and released on her own recognizance. (*Id.* ¶¶ 43-44). That release was expressly effectuated pursuant to “section 236 of the [INA]”—that is 8 U.S.C. § 1226—the specific statutory provision that Respondents now claim does *not* apply to Ms. Quishpi Morocho’s detention. (*Id.* ¶ 44). Since then, Petitioner has complied with all requirements imposed on her by immigration authorities, applied for asylum, and held gainful employment. (*Id.* ¶¶ 47-51). Nevertheless, on January 6, 2026, Ms. Quishpi Morocho was arrested and re-detained while she was driving to her home in Minneapolis, Minnesota, with DHS taking the position that she was subject to mandatory detention under 8 U.S.C. § 1225(b). (*Id.* ¶ 2).

Respondents “abbreviated response” relies exclusively on arguments previously considered and rejected by this Court based on careful reasoning described in detail in *Martin Ramirez v. Noem*, No. 2:26-cv-00063 (SMD), 2026 WL 381868 (D.N.M. Feb. 11, 2026).<sup>1</sup> (Resp. at 1-2). What’s more, Respondents acknowledge that Ms. Quishpi

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<sup>1</sup> Since the filing of the instant petition, the Fifth Circuit decided a different question in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026). There, a divided panel embraced the government’s new position that 8 U.S.C. § 1225(b) empowers it to detain without bond millions of noncitizens inside the country on the same terms as if they were apprehended at the border, no matter how long they have resided in the country. As Respondents readily admit, *Buenrostro-Mendez* is not binding on this Court.

Moreover, *Buenrostro-Mendez* did not decide the procedural due process claim that Ms. Quishpi Morocho presents here, nor address the situation of petitioners, like Mr. Quishpi Morocho, that were initially released pursuant to 8 U.S.C. § 1226(a) and subsequently re-detained with no pre- or post-deprivation process. Accordingly, district courts within the Fifth Circuit have continued to grant habeas corpus petitions on due process grounds following *Buenrostro-Mendez*. See, e.g., *Cortes-Escandon v. Garite*, No. 5:26-cv-314-KC, ECF No. 6 (W.D. Tex. Feb. 13, 2026); *Bonilla Conforme v. De Anda-Ybarra*, No. 5:26-cv-

Morocho’s circumstances are indistinguishable from those discussed in *Martin Ramirez*, a case in which this court held that the petitioner’s detention violated immigration law and the Due Process Clause of the Fifth Amendment.

As this Court explained, “to trigger mandatory detention under [§ 1225(b)], three things must be true. [Petitioner] must be: ‘(1) an applicant for admission, (2) seeking admission, and (3) not clearly and beyond a doubt entitled to be admitted.’” *Martin Ramirez*, 2026 WL 381869, at \*4. “[S]eeking admission into the country’ refers to the physical act of trying to cross into U.S. territory.” *Id.* at \*5 (citing *Jennings v. Rodriguez*, 583 U.S. 281, 293–95 (2018)). On January 6, 2026, when Ms. Quishpi Morocho was arrested in Minneapolis while on her way home, she could not have been seeking admission to the United States. Petitioner’s re-detention is therefore contrary to the text of § 1225(b) (not to mention decades of DHS practice). *See id.* at \*2–3.

Ms. Quishpi Morocho’s re-detention also violates her constitutional right to due process. This Court recognized in *Martin Ramirez* that individuals, like Ms. Quishpi Morocho who spent years in the United States, interacted with the government as required, maintained valid work authorization, and established roots in this country possess a “protected liberty interest in remaining free from detention.” *Id.* at \*7 (citing *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886)). The Government does not contest that Ms. Quishpi Morocho was previously released on her own recognizance and spent more than two years at liberty in the United States prior to her recent arrest, during which time she obtained and

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263-KC, 2026 WL 381110 (W.D. Tex. Feb. 11, 2026); *Berting v. Noem*, No. 5:26-cv-237-KC, 2026 WL 368953, at \*2 (W.D. Tex. Feb. 9, 2026).

maintained valid work authorization, complied with all requirements from immigration enforcement, and gave birth to her youngest daughter. (See Pet. ¶¶ 50, 51, 55). Nevertheless, the government has re-detained Ms. Quishpi Morocho without any pre-deprivation process or finding that she was a danger or a flight risk.

Although Ms. Quishpi Morocho initially entered without inspection, the government released her as an asylum seeker and issued her work authorization. “These official actions effectively recognized Petitioner’s right to live and work in this country, which significantly heightens the constitutional stakes of a due process deprivation.” *Martin Ramirez*, 2026 WL 381869 at \*2. In addition, by classifying Ms. Quishpi Morocho under § 1225(b), the government barred her from seeking a bond hearing before an immigration judge.

As in *Martin Ramirez*, immediate release is the proper remedy where, as here, “Petitioner possesses a protected liberty interest in remaining free from detention and was deprived of that interest without constitutionally adequate process.” *Id.* at \*6.

### **CONCLUSION**

Ms. Quishpi Morocho is being held in violation of the laws and Constitution of the United States. She respectfully requests that her petition be promptly granted, and that the Court order Respondents to immediately release her from custody and return her home to Minneapolis.

Dated: February 17, 2026  
Santa Fe, NM

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Respectfully submitted,

**LUBIN, ENOCH & BUSTAMANTE, P.C.**

/s/ Clara S. Bustamante

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 17, 2026, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties and counsel of record to be served, as more fully reflected on the Notice of Electronic Filing.

/s/ Clara S. Bustamante