

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Juan Daniel PAREJA GIRALDO,

Petitioner,

v.

Mary de Anda-Ybarra, U.S. Immigration and
Customs Enforcement and Removal Operations
El Paso Field Office Director; **Todd LYONS**,
in his capacity as Acting Director, Immigration and
Customs Enforcement; **Kristi NOEM**, Secretary,
U.S. Department of Homeland Security; **Pamela
BONDI**, U.S. Attorney General; **EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
WARDEN**, of ERO El Paso Camp East
Montana, El Paso, Texas

Respondents.

Case No. 3:26-cv-00149-KC

**PETITIONER'S MOTION TO
ENFORCE JUDGE'S ORDER**

PETITIONER'S MOTION TO ENFORCE JUDGE'S ORDER

1. Petitioner Juan Daniel Pareja Giraldo moves for this Court to enforce his Petition for Habeas Corpus because he was not provided with a "meaningful" bond hearing as ordered by this Court. Dkt 5 at 2.¹ Additionally, he cannot appeal the bond denial because the Immigration Judge denied his Motion to Reconsider for lack of jurisdiction due to *Buenrostro v. Bondi*, 25-20496 (5th Cir. 2026). He now seeks for this Court to enforce its prior order by ordering his immediate release from custody. In support, he states the following:

¹ Petitioner's exhibits in support of this motion are forthcoming.

SUMMARY OF THE FACTS

2. Mr. Pareja Giraldo is a gay man from Colombia. He was initially detained at the border in 2022, and Respondents issued him a Credible Fear Interview, which he passed. Since he had demonstrated that he qualified for asylum, Respondents released him.
3. He moved to Massachusetts, and he timely filed for asylum. He obtained work authorization, and he was living and working in Massachusetts. In the last three years, he had developed friendships and positive relationships in his community.
4. As part of Respondents' ongoing enforcement activities, which are supposedly targeting the "worst of the worst," Petitioner was detained, and he was transferred hundreds of miles away from his community to El Paso, Texas.
5. Importantly, Mr. Pareja Giraldo has Immigration Judge Tuckman for his asylum case, but he has Immigration Judge Stephen Ruhle for his bond case.
6. As part of a Petition for Habeas Corpus, this Court ordered the Immigration Court to provide Mr. Pareja Giraldo with a "meaningful" bond hearing on or before February 10, 2026.
Dkt 5 at 2.

RESPONDENTS FAILED TO PROVIDE PETITIONER WITH A MEANINGFUL BOND HEARING

7. At his bond hearing on February 5, 2026, Immigration Judge Ruhle denied bond, finding that Mr. Pareja Giraldo was an "extreme flight risk." In order to make that determination, the Immigration Judge only considered Mr. Pareja Giraldo's eligibility for relief, and nothing else. This was particularly shocking because Mr. Pareja Giraldo has a different Immigration Judge over his asylum case, and there are motions pending in that case. In particular, DHS filed a Motion to Pretermite his asylum case with Immigration Judge Tuckman, meaning that DHS is

attempting to terminate his asylum process without a full hearing in order to force him to seek asylum in Guatemala or Ecuador. DHS filed a copy of its Motion to Pretermitt with the bond case.

8. However, the Immigration Judge failed to apply the law correctly. While the Immigration Judge may consider a non-citizen's eligibility for relief, it is not the *only* factor. *Matter of R-A-V-P* holds that "Limited avenues for relief, *combined* with other minimal ties to the United States" may indicate flight risk. (emphasis added). 27 I&N Dec. 803 (BIA 2020). However, Mr. Pareja Giraldo has an avenue for relief- through his asylum case- as the case was still pending and motions undecided before a separate Immigration Judge. He also has strong ties to the United States, through his bond sponsor, friends, and employment- things which *R-A-V-P* lacked. Because the Immigration Judge did not apply the law and standard correctly, he was not provided with a "meaningful" bond hearing as required by this Court. Dkt 5 at 2.

**RESPONDENTS STRIPPED PETITIONER OF A "MEANINGFUL" BOND HEARING
BY PROHIBITING HIS ABILITY TO EXERCISE HIS APPEAL RIGHTS**

9. On February 10, 2026, Mr. Pareja Giraldo attempted to file a Motion to Reconsider of his bond denial. With his Motion to Reconsider, he filed a copy of his Opposition to the Motion to Pretermitt, the exhibits in support of his Opposition to the Motion to Pretermitt, and his Form I-589 (Application for Asylum). Because Mr. Pareja Giraldo is gay, he should not be deported to Guatemala or Ecuador because it is not safe for him. Guatemala and Ecuador have deplorable human rights records for individuals that identify as LGBT.
10. However, the Immigration Judge immediately denied his Motion to Reconsider, stating that it did not have jurisdiction based on *Buenrostro v. Bondi*. However, because this Court's order was issued *prior* to *Buenrostro* and the Respondents have not sought to amend or vacate

this Court's order, the Immigration Judge was required to follow this Court's order. The Immigration erred, and in so doing, violated Mr. Pareja Giraldo's rights to due process.

11. Because the BIA has ruled on jurisdiction, Mr. Pareja Giraldo is presently prohibited from seeking an appeal of his bond denial as well as receiving a substantive decision on his Motion to Reconsider. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 219-20 (BIA 2025).

**BUENROSTRO DOES NOT PROHIBIT THIS COURT FROM ORDERING
HIS IMMEDIATE RELEASE FROM CUSTODY**

12. Mr. Pareja Giraldo moves for this Court to enforce its prior order by ordering his immediate release since he was not provided with a meaningful bond hearing and he has been stripped of his appeal rights despite this Court's order.
13. Petitioner asserts that *Buenrostro* does not prohibit this Court from ordering his immediate release from custody. Petitioner's claim is not foreclosed by the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, 25-20496 (5th Cir. 2026). In *Buenrostro*, the Fifth Circuit held that non-citizens who enter without inspection are subject to mandatory detention under Section 1225, and thus, they may not request a bond hearing under Section 1226. However, the Fifth Circuit did not review the associated Constitutional claims. Since the Fifth Circuit only reviewed the statutory claims, this Court may review Mr. Pareja Giraldo's constitutional claims.
14. This Court has previously determined that non-citizens have constitutional claims to their liberty that exist outside of the INA. *Smirnov v. De-Anda*, 3:25-cv-00669-KC, (W.D. Tex. Dec. 23, 2025).
15. Alternatively, he argues that because Respondents released him under Section 1226 (INA 236) after he was detained at the border in 2022, Respondents cannot therefore re-detain him under Section 1225. *Moreno-Madrid v. Acuna*, 3:25-CV-01572, *9-10, (W.D. La. Dec. 12, 2025)

(holding that Respondents could not re-detain Petitioner under Section 1225 when he had been previously released under Section 1226).

16. Accordingly, Petitioner seeks his immediate release from custody.

DATED this 10th of February 2026.

/s/ Jennifer Scarborough

Law Firm of Jennifer Scarborough
P.O. Box 18460
Minneapolis, MN 55418
956-513-7633
jennifer@texasborderlawyer.com
Texas State Bar No. 24106401
Attorney for Petitioner

CERTIFICATE OF SERVICE

All parties were served through the Court's ECF system.

/s/ Jennifer Scarborough

Jennifer Scarborough
Attorney for Petitioner

