

U.S. Supreme Court has declared that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. David*, 533 U.S. at 690; *see also Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *4 (W.D. Tex. Oct. 16, 2025) (granting habeas relief after explaining the narrow circumstances where government interests in civil detention outweighs the individual’s constitutionally protected interest in avoiding physical restraint).

This Court’s habeas corpus authority pursuant to 28 U.S.C. § 2241 exists beyond statutory bases to challenging unlawful detention and is fundamental to protecting individual constitutional due process rights. U.S. Supreme Court precedent makes clear that this Petitioner (an individual not at the initial threshold of entry and someone who was paroled into the United States)¹ is entitled to the Fifth Amendment’s Due Process protections (in addition to his statutory rights under the INA). *Zadvydas*, 533 U.S. at 693, 121 S.Ct. 2491. Because Petitioner has lived in the United States for nearly four years, “they cannot revoke that liberty without an individualized determination of the need to do so.” *Hassen*, 3:26-cv-00048-DB, at *3. Respondents must heed well-established constitutional limits to government custody for those with due process interests, regardless of statutory language aimed at reducing disparities between different classes of applicants for admission or this current Presidential Administration’s far-reaching policy changes to hold immigrants in detention en masse.

Accordingly, the U.S. Supreme Court’s three-part balancing test in *Mathews v. Eldridge* controls the due process inquiry into Petitioner’s civil detention. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” (quoting *Armstrong v. Manzo*, 380 U.S. 545,

¹ It is undisputed Petitioner has lived in the United States since his initial entry in 2022 and was paroled into the United States.

552 (1965)). Those factors are: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335; *see also Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *8 (W.D. Tex. Oct. 21, 2025).

The first *Mathews* factor weighs in Petitioner’s favor. “‘The interest in being free from physical detention’ is ‘the most elemental of liberty interests.’” *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Federal courts in Texas have found that noncitizens have a protected liberty interest in their freedom, regardless of citizenship status, when they have spent time living, working, or supporting a family in the interior of the United States. *See, e.g., Lopez Miranda v. Flores*, No. EP-25-CV-584-KC, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025); *Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025) (finding noncitizen has protectable liberty interest because he was “living in the United States for over four years and attends his local church”); *Hernandez-Fernandez*, 2025 WL 2976923 at *9 (“Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention.”). Here, it is undisputed that Petitioner has lived in the United States since 2022. Petitioner pays taxes and works in the United States. He lives in the United States with his family and two children.

The second *Mathews* factor also weighs in Petitioner’s favor. The government’s refusal to provide bond hearings creates a high risk of erroneous deprivation, since the process afforded in removal proceedings does “not ameliorate the risk that [a petitioner] will be erroneously deprived of his liberty while his removability is assessed.” *See Rojas v. Noem*, 2025 WL

3038262, at *3-4. Bond hearings that “conduct individualized custody determinations considering flight risk and dangerousness” are the precise “type of proceeding that would give [a noncitizen] an opportunity to be heard and to receive a meaningful assessment of whether he is dangerous or likely to abscond.” *Id.* at *4. The record is devoid of any facts suggesting that Petitioner would be a flight risk. It is also undisputed that he does not have a criminal record that would jeopardize the safety of others while released.

Finally, the third *Mathews* factor weighs in Petitioner’s favor. Regardless of the government’s purported interest in enforcing its interpretation of the immigration detention statutes, a habeas petitioner’s “constitutional interest in his liberty exists above and apart from the INA.” *Rojas*, 2025 WL 3038262, at *4 (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (“[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”)). Further, while the government “has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community,” such interest “would be squarely addressed through a bond hearing.” *Id.* (citing *Martinez v. Noem*, 2025 WL 2598379, at *4 (W.D. Tex. Sep. 8, 2025)). Accordingly, since all three *Mathews* factors weigh in Petitioner’s favor, Section 1225(b)(2) as applied to Petitioner violates his Fifth Amendment Due Process rights.

Separate and apart from the Fifth Amendment’s procedural due process basis for Petitioner’s habeas petition, Petitioner alternatively asserts that his detention is pursuant to section 1226(a) thereby necessitating a bond hearing. Petitioner acknowledges that the Fifth Circuit Court of Appeals in *Buenrostro-Mendez v. Bondi*, No. 25-20496, --- F.4th --- (5th Cir. 2026), agreed that the government’s interpretation of section 1225(b)(2) is correct. However, Petitioner is preserving his argument that his detention is properly classified as pursuant to section 1226(a) for the reasons eloquently stated in the dissenting opinion, while acknowledging

that this Court is bound by precedent.

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Respectfully Submitted,

/s/ Khiabett Osuna

One of his attorneys

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