

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MAURICIA ARAGON OLIVERA,
Petitioner,

V.

PAMELA BONDI, ATTORNEY
GENERAL,
KRISTI NOEM, SECRETARY, U.S.
DEPARTMENT OF HOMELAND
SECURITY,
TODD M. LYONS, ACTING DIRECTOR
OF IMMIGRATION AND CUSTOMS
ENFORCEMENT,
MARISA FLORES, DIRECTOR, EL
PASO FIELD OFFICE IMMIGRATION
AND CUSTOMS ENFORCEMENT, AND
CURTIS TAYLOR, MAJOR GENERAL,
U.S. ARMY AT CAMP BLISS,
Respondents.

CIVIL ACTION NO. 3:26-CV-190-LS

PETITIONER’S BRIEF IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, Petitioner Mauricia Aragon Olivera (“Ms. Olivera”), and pursuant to the Court’s January 29, 2026 Notice of Oral Argument in the Fifth Circuit Court of Appeals and Order for Supplemental Briefing, submits this Brief in Support of her Petition for Writ of Habeas Corpus, and in support thereof would respectfully show as follows:

In its January 29, 2026 Order, the Court requests Petitioner address the following questions: (1) whether Petitioner was arrested on a warrant issued by the Attorney General; (2) if not, how he or she is eligible for bond under 8 U.S.C. § 1226; and (3) if not eligible for a bond for want of an Attorney General-issued warrant, how habeas relief is available at all.

With regards to the Court's first question, Petitioner was seized by ICE officers on or about January 14, 2026 and was not presented with any warrant supporting her arrest. Respondent has provided no evidence that any warrant for Ms. Olivera's arrest was sought or obtained prior to her arrest.

As to the second question, 8 U.S.C. § 1226 does not explicitly require that an individual be arrested pursuant to a warrant in order to be eligible for bond. Instead, it allows the attorney general authority to release the individual on either a bond or other conditional parole, thus allowing for the bond process. 8 U.S.C. § 1226(a)(2).

Finally, and most importantly for purposes of the Court's order, habeas relief is available for Petitioner pursuant to Petitioner's constitutional rights to due process, even after the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 32330 (5th Cir. Feb. 6, 2026).

It should be noted that immigration detention in the United States operates at the intersection of statutory authority and constitutional limits. While the Immigration and Nationality Act ("INA") provides the government with broad detention powers, these powers are not unlimited. The Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 32330 (5th Cir. Feb. 6, 2026) does operate to narrow certain statutory avenues for release, but it does not eliminate Petitioner's inherent constitutional protections.

The *Buenrostro-Mendez* ruling, issued just days ago on February 6, 2026, overrules the substantial body of judicial analysis and authority by holding that §1225(b)'s mandatory detention provisions may be applied to all applicants for admission to the U.S. who entered without inspection, whether they were apprehended at the border or after a period of living in the country. *Buenrostro-Mendez*, 2026 WL 323330 at *1. *Buenrostro-Mendez* did not address any issues other

than this narrow question of statutory construction. *Id.* In particular, the opinion does not examine any due process challenge to the mandatory detention policy. *Id.*

The *Buenrostro-Mendez* ruling will almost certainly generate a circuit split on this issue and reach the Supreme Court, given the broad consensus among courts across multiple circuits that §1225(b) cannot be read so broadly. Indeed, in December 2025, the Seventh Circuit, in ruling on the government’s emergency motion to stay a district court’s decision to order release of detainees, wrote that “given the factual record before us, we conclude that Defendants are not likely to succeed on the merits of their argument that those individuals, whom ICE arrested in Chicago without a warrant, are subject to mandatory detention under § 1225(b)(2)(A).”¹ *Castanon-Nava v. U.S. Dep’t Homeland Security*, 161 F.4th 1048, 1601 (7th Cir. 2025).

Indeed, judges within the Western District of Texas are continuing to grant petitions for habeas corpus relief even after *Buenrostro-Mendez* by reviewing the petitions on due process grounds. As recently as February 10, 2026, the Western District of Texas has concluded that the *Buenrostro-Mendez* ruling “does not change the case’s outcome on procedural due process grounds.” *Clemente Ceballos v. Garite*, 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026); *see also Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026).

Courts examining the application of § 1225 to petitioners who, like Ms. Rodriguez Chavez, were not detained upon entry and who have lived in the United States for some time have routinely found that mandatory detention is unconstitutional as applied to these individuals, because “non-punitive detention in the immigration context violates the Due Process Clause,’ absent ‘adequate procedural protections’ or a ‘special justification’ outweighing a petitioner’s liberty interest.” *Gonzalez-Albornoz v. Olson*, No. CV-25-208-DLB, 2026 WL 251955, at *3 (E.D. Ky. Jan. 30,

¹ And, on February 3, 2026, the Seventh Circuit held oral argument on the merits in the *Castanon-Nava* case. *See* <https://media.ca7.uscourts.gov/oralArguments/oar.jsp?caseyear=&casenumber=&period=Past+month>.

2026) (citing *Azalyar v. Raycraft*, No. 1:25-CV-916, 2026 WL 30741, at *3 (S.D. Ohio Jan. 2, 2026) (quoting *Padilla v. United States Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2003) and *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001))).

The Western District of Texas thoughtfully analyzed this issue in *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *8. The Petitioner in *Hernandez-Fernandez*, like Ms. Olivera, had not been previously detained. *Hernandez-Fernandez*, 2025 WL 2976923 at *7-8. The *Hernandez-Fernandez* court declined to analyze whether the new, expanded interpretation of § 1225(b)'s mandatory detention authority is lawful, noting instead that the policy as applied “fail[s] to contend with the liberty interests created by the fact that the Petitioner[] in this case [was] released on recognizance *prior to the manifestation of this interpretation*.” (citing *Lopez-Arevelo v. Ripa*, 801 F.Supp.3d 668, 677–78 (W.D. Tex. 2025) (internal citations omitted)).

The Court further applied the familiar three factor test set out in *Mathews v. Eldridge* to determine whether the new mandatory detention policy was unconstitutional as applied to the petitioner. *Hernandez-Fernandez*, 2025 WL 2976923 at *7-8 (citing *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976); *Martinez v. Noem*, No. 5:25-CV-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025)). Based on its analysis of the *Mathews* factors, the *Hernandez-Fernandez* court ruled that “detaining [the petitioner] without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution.” *Hernandez-Fernandez*, 2025 WL 2976923, at *10.

Ms. Olivera stands in a similar position as the petitioner in *Hernandez-Fernandez* and is entitled to habeas relief for the same reasons articulated in that case. Petitioner has a cognizable due process interest in remaining free while her case is pending, absent some showing that she is

a flight risk or a danger to the community. *Hernandez-Fernandez*, 2025 WL 2976923, at *8. The government's dragnet arrest and policy of blanket detention without bond creates a high risk that she is being deprived of this right in error; an individualized bond hearing would greatly reduce this risk. *Id.* at *9. Finally, the government's interest in ensuring that Ms. Olivera appears for her asylum proceedings and poses no danger to the community in the meantime can be satisfied by providing an individualized bond hearing to determine whether detention is appropriate. *Id.* at *10.

WHEREFORE, Ms. Olivera prays that this Court grant the following relief;

- (1) Issue a writ of habeas corpus requiring Respondents to release Petitioner;
- (2) If the Court sees fit to order Petitioner's release, specified relief to ensure a safe return home, including release:
 - (a) Inside of Minnesota;
 - (b) At a safe time and place communicated in advance to counsel; and
 - (c) With all of Petitioner's personal effects, such as driver's license, immigration papers, passport, cell phone, and keys.
- (3) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application; and
- (4) Grant any other and further relief that this Court may deem just and proper.

Respectfully Submitted,



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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2026, I caused a copy of the foregoing Response to be served on Respondents through counsel via the Court's PACER service.

A handwritten signature in black ink, appearing to read "Rachel L. McKenna", with a long horizontal flourish extending to the right.

Rachel L. McKenna