

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JOSE LUIS HERRADA RUBALCAVA,)

Petitioner,)

v.)

RONNIE WOODALL, Warden at Baker)
County Detention Center; GARRETT J.)
RIPA, Director of the ICE Miami Field)
Office; TODD LYONS, Acting Director)
of ICE; MARKWAYNE MULLIN,)
Secretary of the U.S. Department of)
Homeland Security; in their official)
capacities.)

Respondents.)

Case No.
3:26-cv-00162-WWB-SJH

PETITIONER'S REPLY

As of this filing the Petitioner, who has no criminal record, has been detained for 180 days without a bond hearing. He hereby replies to the response submitted on behalf of Respondents GARRETT J. RIPA, Director of the ICE Miami Field Office; TODD LYONS, Acting Director of ICE; MARKWAYNE MULLIN¹, Secretary of the U.S. Department of Homeland Security as follows²:

¹ As former Secretary Noem was sued in her official capacity, current Secretary Markwayne Mullin is substituted in her stead by operation of law.

² Petitioner is contemporaneously filing a separate response to the motion to dismiss filed by Respondent Woodall.

I. The Overwhelming Majority of Decisions Agree with *Patel* on the interpretation of the INA

Respondents acknowledge that the issues in this case are similar to those the Court considered in *Patel v. Hardin*, 2025 U.S. Dist. LEXIS 233409 (M.D. Fla Dec. 1, 2025). But Respondents also cite to a handful of decisions that have gone the other way and agreed with the government's recent re-interpretation of the Immigration and Nationality Act (“INA”) with regards to bonds and mandatory detention.

In reply, Petitioner wishes to emphasize that the cases Respondents cite are a *significant* minority. Whereas, the number of courts that have agreed with *Patel* are growing everyday and include: *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) *Luna Quispe*, 2025 U.S. Dist. LEXIS 194070, 2025 WL 2783799, at *5; *Guerrero Orellana v. Moniz*, 25-cv-12664, 2025 U.S. Dist. LEXIS 196282, 2025 WL 2809996, at *6 (D. Mass. Oct. 3, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 U.S. Dist. LEXIS 195270, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *D.S. v. Bondi*, 25-cv-3682, 2025 U.S. Dist. LEXIS 194262, 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025); *Rodriguez Vazquez v. Bostock*, No. 25-cv-05240, 2025 U.S. Dist. LEXIS 193611, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 U.S. Dist.

LEXIS 191630, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 U.S. Dist. LEXIS 188368, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 U.S. Dist. LEXIS 187233, 2025 WL 2716910, at *9 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 U.S. Dist. LEXIS 188085, 2025 WL 2712427, at *5 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 U.S. Dist. LEXIS 185696, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 U.S. Dist. LEXIS 181837, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326, 2025 U.S. Dist. LEXIS 176165, 2025 WL 2639390, at *10 (D.N.H. Sept. 8, 2025); *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-cv-01789, 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025); *Anicasio v. Kramer*, 25CV3158, 2025 U.S. Dist. LEXIS 157236, 2025 WL 2374224, at *2 (D. Neb. Aug. 14, 2025); *Lopez Benitez v. Francis*, No. Civ. 5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. CV 25-02157, 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025).

Courts have continued to reach this conclusion, despite the Fifth Circuit opinion in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026). See e.g. *Singh v. Baltazar*, 1:26-cv-00336 (D. Co. Feb. 9, 2026) (providing detailed analysis of why *Buenrostro* should not change the outcome of *Hurtado* cases outside of the Fifth Circuit)

In addition, each of the arguments the government makes as to jurisdiction and exhaustion of administrative remedies, are the same ones that have been consistently raised and dismissed in the long line of cases cited above, including *Patel v. Hardin*. See e.g. *Medina v. Ripa*, 2026 U.S. Dist. LEXIS 44966, *4 (M.D. Fla. Mar. 5, 2026) (“The Court rejected those arguments in *Patel* and in scores of other recent cases presenting the same issues.”) (citations omitted) Therefore, they will only be briefly addressed here.

Section 1252(b)(9) does not rob the Court of jurisdiction because it applies only “[w]ith respect to review of an order of removal.” *Casa De Maryland v. U.S. Dep’t of Homeland Sec.*, 924 F.3d 684, 697 (4th Cir. 2019); see also *Jennings v. Rodriguez*, 583 U.S. 281, 293–95 (2018) (plurality opinion). Here, Petitioner is not challenging an order of removal or a removability determination. Petitioner is instead challenging his detention while removal proceedings are pending.

Section 1252(g) similarly does not strip the Court of jurisdiction. That provision bars review only of the Attorney General’s decisions to “commence

proceedings, adjudicate cases, or execute removal orders.” *Reno v. Am.-Arab Anti-Discrimination Comm.* (“AADC”), 525 U.S. 471, 482 (1999) (quoting 8 U.S.C. § 1252(g)). It is aimed at protecting prosecutorial discretion, not at foreclosing challenges to detention itself. *Jennings*, 583 U.S. at 293–95; AADC, 525 U.S. at 485 n.9. Petitioner does not contest the commencement, adjudication, or execution of removal proceedings, but instead challenges the lawfulness of his continued detention.

Petitioner also need not exhaust administrative remedies if “the administrative body is shown to be biased or has otherwise predetermined the issue before it.” *McCarthy v. Madigan*, 503 U.S. 140, 148, 112 S. Ct. 1081, 117 L. Ed. 2d 291 (1992); *see also Shalala v. Ill. Counsel on Long Term Care, Inc.*, 529 U.S. 1, 13, 120 S. Ct. 1084, 146 L. Ed. 2d 1 (2000). It is also well settled that exhaustion of administrative remedies in habeas petitions brought under 28 U.S.C. § 2241 is prudential, not jurisdictional. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75 (11th Cir. 2015) (“It is no longer the law of this circuit that exhaustion of administrative remedies is a jurisdictional requirement in a § 2241 proceeding.”)

The immigration court concluded that the Petitioner was not entitled to relief because he was being held under 1225(b)(2) in accordance with *Matter of Hurtado*. Although *Hurtado* was vacated by a federal court decision in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal.), that ruling

has been temporarily stayed outside the Central District of California, by the Ninth Circuit Court of Appeals. *Baustista v. DHS*, 26-1044, (9th. Cir. Mar. 6, 2026). As is clearly shown by the Respondent's position in this case, the Government continues to advocate for *Hurtado*'s reinterpretation of the INA³, which would subject the Petitioner to mandatory detention. Therefore, any further administrative remedies would be moot.⁴

II. Regardless of How the INA is Interpreted, Constitutional Due Process Requires Issuance of the Writ

The Respondents' brief primarily addresses the statutory interpretation of the Immigration and Nationality Act ("INA"). The arguments therein, are essentially those adopted in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026), which similarly focused its analysis on the INA interpretation while remanding as to the constitutional issue. Accordingly, some district courts within the Fifth Circuit have continued to find for petitioners in these cases on constitutional grounds. *Marceau v. Noem*, 26-CV-237 (W.D. Tex. Feb. 9, 2026) ("*Buenrostro-Mendez* has no bearing on this Court's determination of whether Marceau is being detained in violation of her constitutional right to procedural due process.") *Hassen v. Noem*, 26-CV-00048 (W.D. Tex. Feb. 9, 2026)

³ Respondent's Brief [5] pg. 3, fn. 2 ("Respondents submit Yajure Hurtado remains persuasive authority in this Court regarding the proper interpretation of 8 U.S.C. § 1225(b)(2)")

⁴ There is also a growing body of cases indicating a persistence within the executive branch to conduct unconstitutional bond hearings as well as ones that appear predetermined to deny bond, despite rulings by federal courts. See the cases cited in Section III, *infra*.

(“*Buenrosto-Mendez* does not change this case’s outcome on procedural due process grounds.”)

Those are cases where the Petitioners were recently detained. **As of this filing the Petitioner has been detained for 180 days without a bond hearing.** Even cases cited by the Respondents acknowledge that the analysis changes once the petitioner has been detained for so long. *See e.g. Cutiopala v. Noem*, No. 1:25-CV-0021MAL. 2026 WL 113567 (E.D. Mo. Jan. 15, 2026) (“[S]ignificant constitutional concerns may exist for mandatory immigration detentions exceeding six months....”)

The Fifth Amendment states that “[n]o person shall be . . . deprived of life, liberty, or property, without due process of law” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678 at 690 (2001). The Supreme Court has emphasized that “civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 425 (1979). Further, “once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. *Plyler v. Doe*, 457

U.S. 202, 210 (1982) (“Indeed, we have clearly held that the Fifth Amendment protects aliens whose presence in this country is unlawful from invidious discrimination by the Federal Government.”); *Reno v. Flores*, 507 U.S. 292, 307 (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”).

The “essence of due process is the requirement that ‘a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it.’” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (quoting *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 171–72 (1951) (Frankfurter, J., concurring)). That requires, at minimum, notice, a meaningful opportunity to be heard, and adjudication by a neutral decisionmaker.

Petitioner has resided in the United States since 2006. He has deep ties to his community and is both the father and brother of a U.S. Citizen. He has no criminal record. Yet since October 9, 2025 he has been detained without any individualized bond hearing. Such prolonged detention without an individualized bond determination violates due process under the balancing framework articulated in *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

Application of the *Mathews* factors confirm that the private interest at stake—physical liberty—is substantial; the risk of erroneous deprivation absent a bond hearing is significant; and the Government’s interests are not unduly

burdened by affording constitutionally required process. “The issue here is not the permissibility of immigration detention, but rather the process required in connection with such detention.” *Valdez v. Joyce*, 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025).

III. Immediate Release is a Proper Remedy

In habeas cases where the Court finds an ongoing detention unlawful, “the typical remedy for such detention is, of course, release.” *Munaf v. Geren*, 553 U.S. 674, 693 (2008). “In recent months, courts across the country have ordered the release of detainees in similar situations.” *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (ordering immediate release and collecting cases across jurisdictions); *see also Cruz-Reyes v. Bondi*, 5:26 CV-60, 2026 WL 332315, at *13 (S.D. Tex. Feb. 3, 2026) (“[D]ue process concerns weigh heavily in favor of granting immediate release.”); *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13–14 (W.D. Tex. Oct. 2, 2025) (collecting cases and finding that “immediate release appropriately remedies Respondents’ violation of [Petitioner’s] due process rights through her continued detention.”) This has occurred even in the 5th Circuit, post the *Buenrostro-Mendez v. Bondi* decision. *See Espinosa-Guillen v. Bondi*, Case 1:26-cv-00295-RP (W.D. Tx. Feb. 20, 2026) (“The Court agrees that the appropriate remedy for unlawful detention is release and will order Petitioner’s immediate release.”)

Moreover, federal courts have recently found that even when ordered to hold a bond hearing, immigration judges (who are employees of the executive branch and do not enjoy the same structural independence as Article III judges) have continued to unconstitutionally deny bonds. *Ochoa v. Mason*, 2026 U.S. Dist. LEXIS 39868 2:26-cv-00130, *4 (S.D. WV. Feb. 26, 2026) (ordering immediate release and accepting evidence that “immigration judges who provide neutral adjudications have been removed, and bond is systematically denied after a pro forma hearing with a predetermined outcome.”); *Costa v. McDonald*, 2026 U.S. Dist. LEXIS 27125 No. 25-CV-13469-AK (D. Mass Feb. 10, 2026) (finding subsequent bond hearing violated due process where it failed to place the burden of proof on the government or consider alternatives to detention); *Ramirez v. Lynch*, 2025 U.S. Dist. LEXIS 230745, No. 1:25-cv-01800-JMB-SJB (W.D. MI. Jan. 27, 2026) (finding subsequent bond hearing unconstitutionally failed to place burden on the government); *Lozhkina v. Noem*, 2026 U.S. Dist. LEXIS 7171, No. 6:26-cv-03001-MDH (W.D. Mo. Feb. 10, 2026) (finding subsequent bond hearing set \$20,000 bond without any explanation or discussion of financial condition or alternative conditions); *Said v. Noem*, 2026 U.S. Dist. LEXIS 23475 No. 3:25-cv-938-MOC (W.D. NC. Feb. 4, 2026) *Oliveira v. Moniz*, 2025 U.S. Dist. LEXIS 230607, No. 6:25-CV-6663-EAW (W.D. Ny Dec. 11, 2025) (finding subsequent bond hearing denial violated due process) *Picado v. Hyde*, 2026 U.S.

Dist. LEXIS 27155, No. 1:26-cv-00065-JJM-PAS (D. RI. Feb. 9, 2026) (ordering immediate release after two defective bond hearings).

Consequently, the Court would be well justified in ordering immediate release in this case.

CONCLUSION

For the foregoing reasons and those contained in the original petition, the Court should issue a Writ of Habeas Corpus and order the Petitioner's immediate release, or, alternatively, order Respondents to provide him with a constitutionally-sufficient bond hearing within seven days.

This the 7th of April, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, I electronically filed a copy of the foregoing with the Clerk of Court by using the CM/ECF system, which will provide electronic notice to all attorneys of record.

This 7th of April, 2026

/s/ Russell W. Johnson
Russell W. Johnson