UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Maria Ana Caziaguano Illapa, Petitioner, v. ROSE THOMPSON, in her official capacity as Warden of Karnes County Immigration Processing Center Karnes, et al., Respondents.	Case No. 5:26-cv-00593-OLG **PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

Petitioner Maria Ana Caziaguano Illapa ("Petitioner") hereby submits this Reply Brief in response to Respondents' Response to Petition for Writ of Habeas Corpus (Dkt. 7).

FACTUAL AND PROCEDURAL BACKGROUND

Ms. Maria Ana Caziaguano Illapa is a citizen of Ecuador who has resided in the United States since 2022. (Dkt. 1). She has since established her permanent residence and livelihood in this country. *Id.* On January 14, 2026, she was apprehended by immigration authorities in Minnesota and was then transferred to this jurisdiction. *Id.* On January 30, 2026, Petitioner filed a Petition for Writ of Habeas Corpus and Complaint for Declaratory Relief declaring her detention unlawful and requesting release from custody in Minnesota or alternatively a bond hearing pursuant to 8 U.S.C. § 1226(a) and the Due Process Clause. *Id.* On February 11, 2026, Respondents filed a Response, styled as a Response to Petition for Writ of Habeas Corpus Considering Recent Fifth Circuit Precedent. (Dkt. 7, "Response"). In their Response, Respondents argue that the Petition should be denied because the Fifth Circuit's recent decision in *Buenrostro-Mendez v.*

Bondi controls, making her detention subject to §1225, not §1226. (Dkt. 7 at pp. 2-7). Respondents further argue that Petitioner's claim that her detention should be governed by the Due Process Clause should also be rejected. (Dkt. 7 at pp. 9-11). Respondents' arguments are unavailing, and habeas relief is warranted notwithstanding *Buenrostro-Mendez*.

ARGUMENT

To begin, Petitioner contends *Buenrostro* was decided incorrectly. Since the *Buenrostro* panel's decision, it has received overwhelmingly negative treatment. *See e.g. Singh v. Baltazar*, No. 1:26-CV-00336-CNS, 2026 WL 352870, at *4 (D. Colo. Feb. 9, 2026); *Nicolas v. Noem*, No. 4:26-CV-00028-SEB-KMB, 2026 WL 364399, at *3 n.3 (S.D. Ind. Feb. 10, 2026); *Yociris P. v. Bondi*, No. 26-CV-1080 (ECT/EMB), 2026 WL 327937, at *2 (D. Minn. Feb. 8, 2026); *Cando v. Bondi*, No. 8:26CV46, 2026 WL 357551, at *5 (D. Neb. Feb. 9, 2026); *Carlos Roldan Chang v. Kristi Noem,* No. 4:26CV3019, 2026 WL 357553, at *5 n.5 (D. Neb. Feb. 9, 2026); *Aroca v. Mason*, No. 2:26-CV-00057, 2026 WL 357872, at *15 n.40 (S.D.W. Va. Feb. 9, 2026); *Aguirre-Guevara v. Oddo*, No. 3:26-CV-70, 2026 WL 376846, at *1 (W.D. Pa. Feb. 11, 2026); *Cova v. Rose*, No. 3:26-CV-101, 2026 WL 376921, at *1 (W.D. Pa. Feb. 11, 2026). Notwithstanding this, *Buenrostro* did not address and does not foreclose the due process claim raised in the Petition in this case, and relief should be granted, as Petitioner's mandatory detention without an individualized determination violates procedural due process. *See generally Buenrostro-Mendez v. Bondi*, No. 25020496, 2026 WL 323330, *1-10 (5th Cir. Feb. 6, 2026).

I. Petitioner has not received due process.

Respondent opposes the viability of Petitioner's due process claim, citing *Thuraissigiam* for the premise that "applicants for admission are only entitled to the protections set forth by the statute in the INA." (Dkt. 7 at p. 9 (citing *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020)). This argument misstates the holding and reasoning of *Thuraissigiam*. Judge Cardone

ably noted the limitations of *Thuraissigiam* in *Lopez-Arevelo* and recognized that the Court in *Thuraissigiam* did not address whether citizens mandatorily detained under Section 1225(b) have a constitutional due process right to challenge the fact or length of their detention. *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 682 (W.D. Tex. 2025). Instead, *Lopez-Arevelo* distinguished between a petitioner challenging the denial of his asylum claim, as Thuraissigiam was, and a petitioner challenging his *detention in immigration custody* as Lopez-Arevelo was, and as Petitioner is now. *Id.* (citing *Thuraissigiam*, 581 U.S. at 117-20). Further, Judge Cardone noted that the petitioner's significant presence in the Country – in *Lopez-Arvelo*, the petitioner had been living and working in the United States for three years, while Thuraissigiam, was detained within twenty-five yards from the border and never released – materially distinguished the case from *Thuraissigiam*, such that *Thuraissigiam* did not prohibit the petitioner from pursuing his due process claim. *Id.* at 684-85. As such, non-citizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention. *Id.* at 687.

The reasoning of *Lopez-Arevelo* is bolstered by similar holdings in other district courts, and at least five other circuit courts have considered due process challenges to unreasonable mandatory detentions without suggesting *Thuraissigiam* foreclosed their consideration of such challenges. *Id.* at 683-84. (citing *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024); *Black v. Decker*, 103 F.4th 133, 138 (2d Cir. 2024); *Wekesa v. U.S. Att'y*, No. 22-10260, 2022 WL 17175818, at *1 (5th Cir. Nov. 22, 2022); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39 (1st Cir. 2021); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 208 (3d Cir. 2020); *Espinoza v. Kaiser*, No. 25-cv-1101, 2025 WL 2581185, at *7 n.9 (E.D. Cal. Sept. 5, 2025); *Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1171 (W.D. Wash. 2023)). And, as this Court has recognized, numerous courts have held that mandatory detention without an

individualized determination as to danger and flight risk violates procedural due process. *Rahimi v. Thompson*, SA-25-CV01338-OLG at *7, n.2 (W.D. Tex. Feb. 2, 2026). As such, Petitioner's challenge to her detention on due process grounds is not precluded by *Thuraissigiam*.

II. Petitioner's ongoing detention violates procedural due process.

The Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi* did not address, and therefore does not foreclose, the procedural due process argument that an immigrant detained under § 1225 is entitled to challenge her detention or receive bond hearing as a matter of constitutional law. As noted above, multiple federal courts, including those in the Fifth Circuit, have granted habeas relief on procedural due process grounds, even in light of the Fifth Circuit's decision in *Buenrostro*. *See, e.g.,* Order, *Hassen v. Noem*, 3:26-cv-00048-DB, at *4 n.1 (W.D. Tex. Feb. 9, 2026), **Exhibit A**; Order, *Clemente Ceballos v. Garite*, 3:26-cv-00312-DM at *3 n.2 (W.D. Tex. Feb 10, 2026), **Exhibit B**; *Berting Marceau v. Kristi Noem et al.*, No. EP-26-CV-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026). This is so, because the denial of Petitioner's request for a bond hearing violates procedural due process as applied to a non-citizen. In making this determination, courts apply the three-part test set forth in *Matthews* which analyzes the following factors: (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." *Matthews v. Eldridge*, 424 U.S. 319, at 335 (1976). All three of the *Matthews* factors weigh in favor of Petitioner and therefore Petitioner's due process claim should not be denied.

A. Private Interest

"'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, *2 (W.D. Tex. Sept. 8, 2025) (quoting *Hamdi v. Rumsfield*, 543 U.S. 507, 529 (2004)). Regardless of citizenship status, people have a protected liberty interest in their freedom 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-CV-583-KC, 2025 WL 3901908, *3 (W.D. Tex. Dec. 10, 2025) ("[T]his Court has already held that noncitizens acquire a protectable liberty interest when they spend years establishing a life in the interior of the United States, regardless of their citizenship status."); *Chinchilla v. De Anda-Ybarra*, No EP-25-CV-00548-DB, 2025 WL 3645178, *4 (W.D. Tex. Dec. 16, 2025) (finding noncitizen has a protectable liberty interest because he was "living in the United States for over four years and attends his local church"); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, *9 (W.D. Tex. Oct. 21, 2025) ("Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention."). Nothing in *Buenrostro*'s holding or reasoning alters this. *Hassen v. Noem,* 3:26-cv-00048-DB, *4 (W.D. Tx. Feb. 9, 2026); *Berting Marceau v. Kristi Noem et al.*, No. EP-26-CV-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026); *Aleska Jamaly Bonilla Conforme v. Mary De Anda-Ybarra et al.*, No. EP-26-CV-263-KC, 2026 WL 381110, at *1 (W.D. Tex. Feb. 11, 2026); *Singh v. Taylor*, No. EP-26-CV-00155-DB, 2026 WL 360913, at *1 (W.D. Tex. Feb. 9, 2026); *Ceballos v. Garite*, 3:26-cv-00312-DM at *3 n.2 (W.D. Tex. Feb 10, 2026). For example, in *Hassen*, the Court recognized that "non-citizens who have "established connections" in the United States by virtue of living in the country for a substantial period acquire a liberty interest in being free from government detention without due process of law and held that Hassen, who lived in the United States for over a year, had met the

threshold to acquire such a liberty interest. *Id.* at *3. Petitioner has lived in the country for over four years, has built ties in her community, and serves as a leader in her local church. (Dkt. 1). Therefore, she has acquired the same liberty interest which entitles her to be free from physical detention without due process of law.

B. Risk of Erroneous Deprivation

Under the second factor in the *Matthews* test, the Court considers "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, *3 (quoting *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025)). Refusing to provide bond hearings creates an enormous risk of erroneous deprivation, because the process afforded in removal proceedings does "not ameliorate the risk that [the petitioner] will be erroneously deprived of his liberty while his removability is assessed." *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, *3 (W.D. Tex. Oct. 30, 2025). However, this risk of erroneous deprivation could be ameliorated by providing the Petitioner a bond hearing because it is precisely "the type of proceeding that would give [Petitioner] an opportunity to be heard and to receive a meaningful assessment of whether [s]he is dangerous or likely to abscond." *Id.* at *4. Therefore, the second *Matthews* factor also supports Petitioner's claim that her continued detention, and the denial of a bond hearing, amounts to a violation of her procedural due process.

C. Government's Interest

While the government, "has an interest in insuring that noncitizens appear for their removal hearings and do not pose a danger to the community," such interest would be appropriately addressed though a bond hearing as the purpose of the hearing is to make such a determination. *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, *4 (W.D. Tex. Oct. 30, 2025) (citing

Martinez v. Noem, 2025 WL 2598379 at *4 (W.D. Tex. Sept. 8, 2025)). Additionally, Petitioner has a constitutional interest in her liberty as a result of "the Fifth Amendment [which] entitles aliens to due process of law in the context of removal proceedings," and this constitutional interest in liberty exists "above and apart from the INA." *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *3 (W.D. Tex. Oct. 30, 2025) (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025)). Further, the burden caused by the incremental costs resulting from the increased number of hearings cannot be terribly burdensome provided that "in immigration court, custody hearings are routine and impose a 'minimal' cost." *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 688, 687 (W.D. Tex. 2025) (quoting *Singh v. Andrews*, No. 25-cv-801, 2025 WL 1918679, *8 (E.D. Cal. July 11, 2025) (quoting *Doe v. Becerra*, 787 F.Supp.3d 1083 (E.D. Cal. Mar. 3, 2025))). Therefore, the third and final *Matthews* factor also weighs in Petitioner's favor.

CONCLUSION

For these reasons, and the reasons stated in the Petition, the Court should grant the Petition for Writ of Habeas Corpus and order Ms. Illapa's immediate release or, in the alternative, a bond hearing before an immigration judge at which the government shall bear the burden of justifying, by clear and convincing evidence, the dangerousness or flight risk for Petitioner's continued detention. *See e.g.* Order, *Hassen v. Noem*, 3:26-cv-00048-DB, at *4-5 (W.D. Tex. Feb. 9, 2026); *Berting Marceau*, No. EP-26-CV-237-KC, 2026 WL 368953, at *2.

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Respectfully submitted,

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