

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

NELSON NOE FABIAN RAMOS,

Petitioner,

v.

Mary De Anda-Ybarra, Field Office Director of
Enforcement and Removal Operations, El Paso
Field Office, Immigration and Customs
Enforcement; Todd Lyons, Acting Director
Immigration Customs and Enforcement; Kristi
Noem, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; ACQUISITION
LOGISTICS, LLC; and Warden of ERO El
Paso Camp East Montana,

Respondents.

Case No. 3:26-CV-264

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 **PETITIONER’S REPLY IN SUPPORT OF THEIR PETITION FOR *HABEAS CORPUS***

2
3 Petitioner, **NELSON NOE FABIAN RAMOS**, by and through counsel, **LOUISE T. CARHART**, is a noncitizen detained by Immigration and Customs Enforcement (“ICE”), and
4 petitions this Honorable Court for a Writ of *Habeas Corpus* under 28 U.S.C. §2241, alleging
5 his arrest and subsequent detention is illegal and that Respondents have violated his right to due
6 process guaranteed by the Fifth Amendment.

7 **I. BACKGROUND**

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9 Nelson Noe Fabian Ramos is a native and citizen of Guatemala. He entered the United
10 States on or about 2017, when he was seventeen years old. On or about November 2025, he was
11 re-detained by ICE in Elmhurst, Chicago as part of a targeted enforcement action. He was then
12 processed at an ICE processing center before being transferred to the El Paso Camp East
13 Montana detention facility. Mr. Fabian Ramos has a currently pending asylum case before
14 USCIS.

15 **II. DISCUSSION**

16 A district court may grant a writ of habeas corpus to any person who demonstrates he is
17 “in custody in violation of the Constitution or laws . . . of the United States.” 28 U.S.C. §2241.
18 The individual in custody bears the burden of proving that his detention is
19 unlawful. *See, e.g. Walker v. Johnston*, 312 U.S. 275, 286 (1941).

20 Mr. Fabian Ramos claims violations of the Immigration and Nationality Act
21 (“INA”) (Count I) and the Due Process clause of the Fifth Amendment (Count II). (ECF No. 1,
22 at 10-11). In opposition to Mr. Fabian Ramos’s petition, Respondents argue that *Buenrostro-*
23 *Mendez v. Bondi*, ---F.4th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026) precludes his inclusion
24 under 8 U.S.C. § 1226(a) and thus his due process rights have not been limited.

25 Respondents fail to acknowledge the specific set of facts in the instant case and instead
26 respond to a procedural due process claim that has not been raised. They cite no justification for
27 the apparent re-evaluation of Mr. Fabian Ramos’s parole and the commencement of removal

proceedings, as required by *Saravia v. Sessions*, 280 F.Supp. 3d 1168 at 1196-1197.¹ Most importantly, Mr. Fabian Ramos does not fall into the class of noncitizens contemplated by *Buenrostro-Mendez* given his immigration history and the substantial differences between his entrance and those of the Petitioners in *Buenrostro-Mendez*.

A. EXHAUSTION OF REMEDIES

Respondents argue that Mr. Fabian Ramos can appeal his bond decision to the Board of Immigration Appeals (“BIA”) and should first exhaust his other administrative opportunities before raising any plea with this court. Response in Opposition to Petition for Writ of Habeas Corpus (“Resp. Br.”), ECF No. 4, at 17. This claim seeks to severely limit this Court’s authority and Congress has imposed no statutory exhaustion requirement for petitions brought under 28 U.S.C. § 2241. “Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.” *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); *see* 8 U.S.C. § 1252(d)(1) (“A court may review a final order of removal only if . . . the alien has exhausted all administrative remedies.”).

(APA)] may not defer to an agency interpretation of the law simply because a statute is ambiguous.”).

There are two reasons why this argument of administrative exhaustion fails. First, Mr. Fabian Ramos’s claims raise constitutional questions that neither an Immigration Judge nor the BIA may rule on. *See Petgrave v. Aleman*, 529 F. Supp. 3d 665, 672 n.14 (S.D. Tex. 2021). Secondly, if Mr. Fabian Ramos attempts to appeal the Immigration Judge’s bond denial to the BIA, “the appeal timeline exacerbate[s]” his alleged injury of prolonged detention. *Id.* at 672 n.14.

¹ Respondents’ Exhibit A., Form I-213 Record of Deportable/Inadmissible Alien, states that “FABIAN RAMOS entered without inspection on November 4, 2017 and was issued a Notice to Appear as an Unaccompanied Minor.” Designation as an Unaccompanied Minor is decided by the Department of Homeland Security, who then transfer custody of the child to the Office of Refugee Resettlement. The ORR is responsible for determining the “least restrictive setting that is in the best interest of the child.” Trafficking Victims Protection Reauthorization Act of 2008, 8 U.S.C. § 1232(c)(2). After a suitable sponsor for the child is identified, a UAC is released pursuant to humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). *See* 8 C.F.R. § 236.3. If no sponsor is identified, the child remains in ORR custody until they turn 18, at which time they are transferred to adult detention maintained by DHS. *Id.* Given Petitioner’s claims that he was paroled and the fact that he was a minor at the time of his release, as confirmed by Respondents’ Exhibit A, it is reasonable to believe he was released pursuant to humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

1 As in *Petgrave*, Mr. Fabian Ramos challenges his ongoing detention as a violation
2 of due process. *See id.* He requested a bond hearing before an Immigration Judge,
3 who determined that he lacked jurisdiction to hold one. Requiring Mr. Fabian Ramos to wait,
4 indefinitely, for a ruling on that appeal would be inappropriate because it would exacerbate his
5 alleged constitutional injury — detention without a bond hearing. *See Petgrave*, 529 F. Supp. 3d
6 at 672 n.14; *see also Hernandez-Fernandez v. Lyons, et al.*, No. 5:25-cv-00773-JKP-ESC (W.D.
7 Tex. Oct. 21, 2025). “Bond denial appeals ‘typically take six months or more to be resolved at
8 the BIA.’” *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *3 (E.D. Mich.
9 Sept. 9, 2025) (quoting *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025)).
10 “The prevention of six months or more of unlawful detention thus outweighs the interests the
11 BIA might have in resolving” Mr. Fabian Ramos’s appeal of the Immigration Judge’s bond
12 dismissal. *See id.* Accordingly, Mr. Fabian Ramos’s claim is properly before the Court with no
13 further requirement to exhaust administrative remedies.

14 **BASIS FOR DETENTION**

15 Immigration detention is governed by two statutory sections: 8 U.S.C. §§ 1225 and 1226.
16 Section 1225 “authorizes the Government to detain certain aliens *seeking admission into the*
17 *country*,” while §1226 “authorizes the Government to detain certain aliens *already in the*
18 *country* pending the outcome of removal proceedings,” including noncitizens “who were
19 inadmissible at the time of entry.” *Jennings*, 583 U.S. at 288-289 (emphasis
20 added). Respondents, via their response, have declared that Mr. Fabian Ramos was and is
21 currently properly detained under §1225(b)(2). Res. Reply at 4. Respondents rely on the 5th
22 Circuit’s recent decision in *Buenrostro* to further their claim that Mr. Fabian Ramos is subject to
23 mandatory detention.

24 *Buenrostro* concerns noncitizens who entered as adults and were first detained more than
20 years after entering the United States. In contrast, Mr. Fabian Ramos was immediately
21 detained when entering the United States as a minor and was transferred to ORR custody due to
22 his status as an unaccompanied alien child, a fact alluded to in Petitioner’s Ex. A. In *Buenrostro*,
23 the Court notes that “it seems strange to suggest that Congress would have preserved bond
24 hearings exclusively for unlawful entrants.” *Buenrostro* at 20. In fact, Congress has set up a
scheme of detention and release for UACs which operates separately from normal DHS

1 procedure. To equate the Petitioner's case with that of the petitioners in *Buenrostro* ignores the
2 provisions of the Trafficking Victims Protection Reauthorization Act meant to address minors in
DHS custody. 8 U.S.C. § 1232(a)(1).

3 Section 1226(a) sets out a "default rule" for the discretionary detention of
4 noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303. Under §1226(a),
5 immigration authorities may make an initial determination as to detention, but noncitizens may
6 then request a bond hearing before an Immigration Judge. 8 C.F.R. §1236.1(c)(8), (d) (1). At that
7 hearing, the noncitizen "may secure his release if he can convince the officer or immigration
8 judge that he poses no flight risk and no danger to the community." *Nielsen v. Preap*, 586 U.S.
9 392, 397-98 (2019)(citing 8 C.F.R. §§1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec.
10 37 (BIA 2006)). Thus, under § 1226(a), Mr. Fabian Ramos is entitled to a discretionary bond
11 determination hearing. To date, he has not been provided an opportunity to present his evidence
and receive any individualized findings pursuant to § 1226(a). Thus his continued detention is in
violation of the INA.

12 C. VIOLATION OF DUE PROCESS 13

14 Petitioner's re-detention, almost six years after being released into the United States
15 following an initial detention, was without prior notice, a showing of changed circumstances, or
16 a meaningful opportunity to object, and therefore he was not afforded the procedural
requirements of the Fifth Amendment. *Rosado v. Figueroa*, No. CV25-02157 PHX DLR (CDB),
17 2025 U.S. Dist. LEXIS 156344, at *36 (D. Ariz. Aug. 11, 2025); *Yick Wo v. Hopkins*, 118 U.S.
18 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886).

19 Re-detaining a UAC previously released under 8 U.S.C. § 1232(c)(2)(A) absent a
20 showing that the circumstances surrounding the UAC's dangerousness or flight risk had changed
is a violation of due process rights. *Saravia v. Sessions*, 280 F.Supp. 3d 1168 at 1196-1197. In
21 this context, it is *not* in the public interest to re-detain UACs who are not flight risks or dangers
22 to the community. No analysis of Petitioner's prior release or the reasons it was granted
occurred here and his re-detention is not in the public interest.

23 Individuals who have been conditionally released from detention have a protected interest
24 in their "continued liberty." *Herrera v. Tate*, No. H-25-3364, 2025 U.S. Dist. LEXIS 189999, at

1 *31 (S.D. Tex. Sep. 26, 2025) (quoting *Young v. Harper*, 520 U.S. 143, 147 (1997)). Absent an
2 articulated lawful purpose for re-detention, Mr. Fabian Ramos is entitled to the notice and
3 hearing process. See *Rodriguez Romero v. Ladwig*, No. 25-cv-1106, 2026 WL 321437 (M.D.
4 La. Feb. 6, 2026); see also *Jacobo Ramirez v. Noem*, --- F.Supp.3d ----, 2025 WL 3270137, at
5 *8–9 (D. Nev. Nov. 24, 2025) (finding petitioners who entered without inspection, some
6 previously released on recognizance, likely to prevail on substantive due process claim).

7 **III. CONCLUSION**

8 For the reasons stated above, Mr. Fabian Ramos’s petition for writ of habeas corpus
9 should be granted. Respondents should immediately release Mr. Fabian Ramos from custody, or
10 in the alternative, provide him with a bond hearing under 8 U.S.C. § 1226(a) within 3 days. If
11 Respondents intend to pursue a new bond redetermination, this Court should expressly preserve
12 Mr. Fabian Ramos’s due process claim to permit renewal should bond again be
13 denied. Furthermore, Mr. Fabian Ramos requests that this Court order Respondents to file a
14 status report within six business days of the date of this Court’s opinion and accompanying order
15 and judgment to certify compliance. The status report shall include if and when the bond hearing
16 occurred, if bond was granted or denied, and if bond was denied, the reasons for the denial. In
17 light of *Yajure Hurtado* and his months-long separation from his family, the more appropriate
18 remedy is immediate release.

19 Dated: February 26, 2026

20 s/William A. Quiceno

21 *William A. Quiceno*

22 *Attorney for Petitioner*

23 **William A. Quiceno**

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CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2026, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Western District of Texas by using the CM/ECF system. All parties to this case are registered CM/ECF users and will be served through the CM/ECF system.

Dated: February 26, 2026

s/William A. Quiceno

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