

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

Alex Mauricio Carrillo Aguagallo,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department of Homeland Security,

Todd Lyons, Acting Director of Immigration and Customs Enforcement,

David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement,

Joel Garcia, Field Office Director, El Paso Field Office, United States Immigration and Customs Enforcement, and

Oscar Ugarte, Sheriff of El Paso County.

Respondents.

Case No. 3:26-CV-00270

**PETITIONER'S REPLY IN
SUPPORT OF VERIFIED
PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

Federal Respondents' sole basis for imprisoning Petitioner Alex Mauricio Carrillo Aguagallo is that he is allegedly "subject to mandatory detention under § 1225(b)(2)" of the Immigration and Nationality Act (the "INA"). [Dkt. 3] ("Resp."), at 1. While Mr. Aguagallo disputes that assertion, Respondents' detention of him remains unlawful. As outlined in his petition, beyond Mr. Aguagallo's claim that his detention violates § 1225(b)(2), Mr. Aguagallo is entitled to relief based on the Fifth Amendment and the Administrative Procedures Act.

In response to Mr. Aguagallo's petition, Respondents treat *Buenrostro-Mendez* as alpha and omega. *See Buenrostro-Mendez v. Bondi*, No. 25-20496, ---- F.4th ---- 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026). Indeed, Respondents go so far as to say that *Buenrostro* "requires

that the Court deny this habeas petition” and that arguments grounded in **constitutional** due process are “foreclosed by *Buenrostro*.” Resp. at 2. Yet, *Buenrostro* did not speak to due process and, instead, was decided solely on statutory interpretation—the government admitted as such: “We have one issue before the [Fifth Circuit in *Buenrostro*]: the statutory question . . . There’s not, in other words, a due process claim here.” *Marceau v. Noem*, No. EP-26-CV-237-KC, 2026 U.S. Dist. LEXIS 29739, at *4–5 (W.D. Tex. Feb. 9, 2026) (quoting *Buenrostro*’s oral argument). As this Court has recognized—several times now, Respondents’ efforts to conflate *Buenrostro*’s holding and the language of the INA to foreclose Mr. Aguagallo’s constitutional rights fall short.

Instead, procedural due process applies to all forms of detention by the government and is not restricted to the terms of any singular statute. Here, Mr. Aguagallo’s procedural due process rights were plainly violated by Respondents. This Court should grant his petition.

ARGUMENT

I. Section 1225(b)(2) Violates Procedural Due Process as Applied to Mr. Aguagallo

In his petition, Mr. Aguagallo explained why his civil detention violated the three-part procedural due process test in *Mathews v. Eldridge*, 424 U.S. 319 (1976) and, therefore, violated his constitutional right to due process. [Dkt. 1], at 9. Respondents do not appear to challenge whether Mr. Aguagallo’s detention would meet *Mathews*’ criteria. Rather, Respondents claim that *Mathews* is entirely inapplicable by recharacterizing Mr. Aguagallo’s claim as solely substantive rather than procedural. *See* Resp. at 11 (arguing *Mathews* has no application), *see also* Resp. at 11–13 (arguing about the substance of Mr. Aguagallo’s procedural due process claim without *Mathews*).

Respondents then claim that Mr. Aguagallo’s due process is necessarily confined to the statutory provisions of the Immigration and Nationality Act (the “INA”). *See generally* Resp. at 7–12. According to Respondents, under *Buenrostro*, § 1225(b)(2) of the INA “requires mandatory

detention” if an alien—regardless of whether such person has been released into the country for several years—is (1) “an applicant for admission” and (2) “not clearly and beyond a doubt entitled to be admitted.” Resp. at 7–8. And, because § 1225(b)(2) only concerns those two determinations and Mr. Aguagallo indisputably meets both criteria Respondents next argue—in reliance on primarily *DHS v. Thuraissigiam* as well as *Conn. Dep’t of Pub. Safety v. Doe*—Mr. Aguagallo’s detention is consistent with due process because no additional process would change the underlying statutory determinations under § 1225(b)(2). *See generally id.* at 7–12. In other words, Respondents attempt to avoid *Mathews* altogether by claiming that Mr. Aguagallo’s procedural due process claim is a “disguised” substantive due process claim and, even if it was not, his procedural due process claim is confined to the text of the INA. *Id.* at 11. Respondents are wrong.

A. As this Court has Consistently Recognized, *Thuraissigiam* Does Not Foreclose Individuals Like Mr. Aguagallo from Obtaining Procedural Due Process

“The Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (compiling cases further supporting the due process protections); *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976). The Due Process Clause applies to noncitizens detained under 8 U.S.C. § 1225(b). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (allowing lower courts to consider as-applied due process challenges to detention under § 1225(b)). As this Court has clarified—and several other courts have held: immigration detention “without an individualized assessment of flight risk and dangerousness deprives [an individual] of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution.” *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 U.S. Dist. LEXIS 209332, at *12 (W.D. Tex. Oct. 21, 2025).¹

¹ *See also Azalyar v. Raycraft*, No. 1:25-CV-916, 2026 U.S. Dist. LEXIS 3705, at *12–13 (S.D.

In accordance with these basic principles, this Court has repeatedly rejected—including as recently as last Thursday—Respondents’ argument—based on an unreasonably expansive reading of *Thuraissigiam*—that petitioners like Mr. Aguagallo are not entitled to any more due process than the purely statutory rights provided under the INA. Order Granting Petition for Writ of Habeas Corpus, *Mendoza v. Noem*, No. 5:26-CV-0728, at 10–15 (W.D. Tex. Feb. 26, 2026) (attached as **Exhibit 1**); *Marceau*, 2026 U.S. Dist. LEXIS 29739, at *2–4 (“As for the rest of Respondents’ arguments, the Court has already rejected them.”); *Lala Barros v. Noem*, Cause No. EP-25-CV-488-KC, 2025 U.S. Dist. LEXIS 223593, at *8–10 (W.D. Tex. Nov. 10, 2025) (“The Court has already rejected” Respondents’ argument); *Rojas*, 2025 U.S. Dist. LEXIS 217585, at *6 (“The Court has already rejected such a reading.”); *see also Lopez-Arevelo*, 2025 U.S. Dist. LEXIS 188232, at *19 (declining to consider “a proper reading of the INA” when determining whether petitioner’s due process rights were violated).²

Apparently undeterred by this Court’s holdings, Respondents—again—attempt to use *Thuraissigiam*, *see* Resp. Br. at 11–13, as a reason to deprive Mr. Aguagallo of “an individualized assessment of flight risk and dangerousness” in violation of “procedural due process under the Fifth Amendment.” *Martinez*, 2025 U.S. Dist. LEXIS 209332, at *12. Respondents’ reliance on

Ohio Jan. 2, 2026); *Gonzalez-Albornoz v. Olson*, No. CV-25-208-DLB, 2026 U.S. Dist. LEXIS 19856, at *12–13 (E.D. Ky. Jan. 30, 2026); *Rincon v. Hyde*, No. CV 25-12633-BEM, 2025 U.S. Dist. LEXIS 220058, at *15–21 (D. Mass. Nov. 7, 2025); *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 U.S. Dist. LEXIS 217585, at *11–13 (W.D. Tex. Oct. 30, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 U.S. Dist. LEXIS 206751, at *23–25 (W.D. Tex. Oct. 21, 2025); *Vieira v. De Anda-Ybarra*, 806 F. Supp. 3d 690, 699 (W.D. Tex. 2025); *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 U.S. Dist. LEXIS 195616, at *39–41 (W.D. Tex. Oct. 1, 2025); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 687–88 (W.D. Tex. 2025).

² *Martinez*, 2025 U.S. Dist. LEXIS 209332, at *7 (“The Court has already rejected such a reading.”); *Santiago*, 2025 U.S. Dist. LEXIS 195616, at *18–29 (similar); *Ceballos v. Garite*, No. EP-26-CV-00312-DB, 2026 U.S. Dist. LEXIS 32967, at *3, n. 1 (W.D. Tex. Feb. 10, 2026) (similar); *Lopez-Arevelo*, 801 F. Supp. 3d at 684.

Thuraissigiam is, once again, misplaced for the same two reasons that such reliance has been misplaced in the several cases mentioned above.

First, the issue before the Court in *Thuraissigiam* concerned expedited removal of noncitizens apprehended near the border. *See generally Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 114–16 (2020) (“A Border Patrol agent stopped him within 25 yards of the border, and the Department detained him for expedited removal”). Specifically, *Thuraissigiam* involved the narrow question of whether, with respect to an alien apprehended near the border and placed in expedited removal proceedings, § 1252(e)(2)’s provisions limiting judicial review of a determination made under § 1225(b)(1) violated the Suspension Clause and the Due Process Clause. *See generally id.* As this Court explained in *Santiago*, the Supreme Court in *Thuraissigiam* “did not address whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention.” *Santiago*, 2025 U.S. Dist. LEXIS 195616, at *21.³ Indeed, a challenge to detention is different than a challenge to deportability. *Vieira*, 806 F. Supp. 3d at 699. “It is critically important to recognize Petitioner is in full removal proceedings, with presumably some immigration relief available to him, unlike *Thuraissigiam* who was subject to expedited removal after unsuccessful asylum claims.” *Id.* (citing *Thuraissigiam*, 591 U.S. at 114). In these circumstances, “the choice. . . is not between imprisonment and the alien ‘living at large[,]’ [citation omitted] [i]t is between imprisonment and supervision under release conditions that may not be violated.” *Vieira*, 806 F. Supp. 3d at 699 (quoting *Zadvydas*, 533 U.S. at 696). As such, *Thuraissigiam* is inapplicable here where the

³ The same distinction applies to *Kaplan v. Tod*, 267 U.S. 228 (1925) cited favorably by Respondents, which involved deportation as opposed to detention. Resp. at 12. *Kaplan* is also distinguishable because *Kaplan* involved a petitioner who was erroneously claiming citizenship as the sole basis for her challenge to deportation. *See generally Kaplan*, 267 U.S. at 229–31.

challenge involves Mr. Aguagallo's detention after being in the country for a significant period of time with an asylum claim pending—as opposed to the question of removability shortly after crossing the border.

Second, as this Court has recognized, “a person may obtain a liberty interest through their presence in the country, particularly where that presence is with the express permission of the Government.” *Marceau*, 2026 U.S. Dist. LEXIS 29739, at *3. Immigration law has “long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” *Santiago*, 2025 U.S. Dist. LEXIS 195616, at *27–28 (cleaned up). “In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely on the threshold of initial entry.” *Id.* (cleaned up). Indeed, this is “consistent with the longstanding principle that due process applies to those who are present in the interior of the United States, regardless of their citizenship status.” *Martinez*, 2025 U.S. Dist. LEXIS 209332, at *9–10.

Here, unlike the alien in *Thuraissigiam* who had just arrived at our nation's borders, Mr. Aguagallo has been living in the United States for more than two years “with the express permission of the government” and has obtained a liberty interest. *Id.* Respondents do not dispute that Mr. Aguagallo has a pending asylum application, employment, and a family in the United States, or that Mr. Aguagallo has no criminal record. The circumstances of Mr. Aguagallo's detention are therefore easily distinguishable from the alien in *Thuraissigiam*. Ultimately, *Thuraissigiam* does not invalidate Mr. Aguagallo's liberty interest protected by the Due Process Clause.

B. Conn. Dep't of Pub. Safety is Inapplicable

Respondents' reliance on *Conn. Dep't of Pub. Safety* to foreclose Mr. Aguagallo's rights is misplaced as that case too is easily distinguishable from this one. *Conn. Dep't of Pub. Safety*

involved the constitutionality of a convicted sex offender being placed on a publicly-available registry maintained by the State of Connecticut. 538 U.S. 1, 5–6 (2003). While the Supreme Court rejected a procedural Due Process challenge to an offender’s placement on the registry, the Court did so primarily because the offender “already had a procedurally safeguarded opportunity to contest” their underlying conviction. *Id.* at 7. Here, Mr. Aguagallo had no opportunity (let alone, a “procedurally safeguarded opportunity”) to contest whether or not he should be detained after the government permitted him to live within the nation’s boundaries for over two years. Instead, Mr. Aguagallo was detained while working in central Minnesota, transported several miles to Minneapolis, subsequently transported to El Paso, Texas, and has remained in custody ever since without any process.

In addition, the Supreme Court in *Conn. Dep’t of Pub. Safety* questioned whether the offender even had a liberty interest sufficient to support a procedural due process challenge. *Id.* at 6–7. Here, it is undisputed that Mr. Aguagallo’s imprisonment implicates the most fundamental liberty—freedom from arbitrary detention. *Conn. Dep’t of Pub. Safety* is inapplicable.

Finally, *Conn. Dep’t of Pub. Safety* has never been cited in the context of immigration proceedings or the detention of someone like Mr. Aguagallo. Indeed, Respondents provide no such application of the case in a context like this one. Respondents offer no reason as to why this Court should be the first to apply it as such.

C. The *Mathews*’ Factors Demand Relief for Mr. Aguagallo

Because Respondents largely do not dispute that the *Mathews*’ factors would mandate relief for Mr. Aguagallo, “[t]here is no reason to overdo the analysis on the *Mathews* factors.” Ex. 1 at 14 (*Mendoza* order). But, it is worth briefly noting that all three factors: (1) private interest, (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" weigh in favor of granting Mr. Aguagallo's petition. *Eldridge*, 424 U.S. at 334. Mr. Aguagallo has a private interest in his freedom. Further, "[a] substantial risk of erroneous deprivation of liberty exists when detention without a bond of a noncitizen who was arrested within the United States and lacks any prior release by immigration authorities, but who has established a life here in the United States." Ex. 1 at 14 (citing *Martinez*, 2025 WL 2965859, at *4)). And the Government's interest in ensuring Mr. Aguagallo is detained without proper process is minimal—especially in comparison to Mr. Aguagallo's substantial liberty interest. *See, e.g., Santiago*, 2025 U.S. Dist. LEXIS 195616, at *36–39.

Ultimately, even assuming that *Buenrostro* was correctly decided, Mr. Aguagallo's "constitutional interest in [his] liberty exists above and apart from the Immigration and Nationality Act and attendant regulations." *Marceau*, 2026 U.S. Dist. LEXIS 29739, at *3. Because Mr. Aguagallo has such an interest and the three-pronged *Mathews* test balances in his favor, Mr. Aguagallo's petition should be granted.

II. Mr. Aguagallo is Entitled to Relief Under the Administrative Procedure Act

Even if Mr. Aguagallo were limited to "the due process owed under statute," as Respondents claim, that statutory landscape is evolving. On December 18, 2025, the Central District of California entered an order vacating the so-called "Lyons Memo" on the grounds that expanding application of §1225(b) to all "applicants for admission" constitutes an arbitrary and capricious violation of the APA. Amended Order on Summary Judgment, *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, (C.D. Cal. Dec. 18, 2025) (finding the extension of § 1225(b) to all "applicants for admission" constitutes an arbitrary and capricious violation of the APA) (attached as **Exhibit 2**). On February 18, 2026, the Central District of California entered a

further order vacating *In re Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the BIA decision giving effect to the Lyons Memo, on the same grounds. *See generally* Order Granting Plaintiff Petitioners’ Motion to Enforce Judgment, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal., Feb. 18, 2026) (vacating *Yajure Hurtado*) (attached as **Exhibit 3**). In the *Bautista* proceedings, the government acknowledged that the precedential value of *Yajure Hurtado* is their only basis for denying bond hearings to noncitizens apprehended while living in the U.S. Ex. 3 (Motion to Enforce Judgment in *Bautista*), at 9, 16.

Of course, the Fifth Circuit in *Buenrostro* has ruled that Section 1225(b) is textually applicable to all “applicants for admission,” whether or not they reside in the interior of the United States at the time they are apprehended. *Buenrostro*, 2026 U.S. App. LEXIS 3899, at *4–5. But *Buenrostro* did not consider and does not offer guidance on how this textual interpretation may be limited by the Administrative Procedure Act’s bar on arbitrary and capricious changes in longstanding federal policy. Under the APA, even if an agency action is consistent with the plain language of the statute, it may be vacated if it is arbitrary and capricious. *See Brackeen v. Haaland*, 994 F.3d 249, 355 (5th Cir. 2021), *aff’d in relevant part, vacated in part, rev’d in part*, 599 U.S. 255 (2023) (“an agency can violate the APA by switching to a statutory interpretation that is wholly reasonable . . . if it does so without providing an adequate explanation for the change.”); 5 U.S.C. § 706(2)(A), (C) (calling for courts to separately evaluate whether an agency action is arbitrary and capricious and whether an agency action is in excess of statutory authority). Thus, the Fifth Circuit’s blessing of Respondents’ statutory interpretation does not preclude the *Bautista* court’s vacatur of the Lyons Memo and *Yajure Hurtado* as arbitrary and capricious. *See Brackeen*, 994 F.3d at 355. While that vacatur may ultimately be overruled on appeal, “the *Bautista* final judgment remains preclusive while it’s pending before the Ninth Circuit.” *Samayoa v. Smith, et al.*, No. 5:25-CV-190-BJB, 2026 U.S. Dist. LEXIS 35026, at *14 (W.D. Ky. Feb. 20, 2026).

Respondents argue that an APA claim is not cognizable in habeas proceedings. Resp. at 17–18 (citing *Mesina v. Wiley*, 352 F. App'x 240, 241-42 (10th Cir. 2009)). However, this Court has previously “assum[ed] without finding that APA claims are cognizable under habeas,” *Santiago*, 2025 U.S. Dist. LEXIS 195616, at *5.

In any event, this Court need not reach the issue of whether an APA claim is cognizable in a petition for habeas corpus, because in this case, the APA vacatur has already happened. Mr. Aguagallo does not need to ask this Court to find the policy of expanded mandatory detention under § 1225(b) is arbitrary and capricious, because the Central District of California has already done so and has vacated both the “Lyons Memo” and *Yajure Hurtado*. Exs. 2 & 3. Mr. Aguagallo is simply asking this court to take judicial notice that both of those policy changes are, at present, a legal nullity.⁴ “Consequently, the immigration court's legal basis for not providing Petitioner with the relief of an individualized bond hearing established in *Maldonado Bautista* is now void.” *Pacheco-Sanchez v. Holston, et al.*, No. 2:26-CV-00330-RFB-NJK, 2026 U.S. Dist. LEXIS 34665, at *5 (D. Nev. Feb. 20, 2026).

While the Fifth Circuit has now clarified that §1225(b)(2) is textually applicable to all “applicants for admission,” wherever or whenever they may be apprehended, the DHS policy and

⁴ The APA equips reviewing courts to “hold unlawful and set aside agency action” found to be “arbitrary [and] capricious” or “in excess of statutory jurisdiction.” 5 U.S.C. § 706(2). “The Federal Government and the federal courts have long understood § 706(2) to authorize vacatur of unlawful agency rules.” *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 603 U.S. 799, 826 (2024) (Kavanaugh, J., concurring). This “unique form of judicial review . . . differs from judicial review of statutes” by enabling courts to “formally nullify” unlawful federal agency actions rather than simply entering “non-enforcement remedies.” Jonathan F. Mitchell, *The Writ-of-Erasure Fallacy*, 104 Va. L. Rev. 933, 950 (2018). Under the APA, “[r]eviewing courts may formally vacate an agency’s rule or order, rather than merely enjoin officials from enforcing it.” *Id.* at 1014. “Because Congress provided vacatur as a standard remedy for APA violations, courts typically invalidate—without qualification—unlawful administrative rules as a matter of course.” *Franciscan All., Inc. v. Azar*, 414 F. Supp. 3d 928, 934 (N.D. Tex. 2019) (internal quotations and citation omitted); see also *Data Mktg. P’ship, LP v. U.S. Dep’t of Labor*, 45 F.4th 846, 859 (5th Cir. 2022).

BIA decision animating Respondents’ dramatic policy shift in this direction has been vacated. Ex. 2 (Order in *Bautista* vacating *Yajure Hurtado*) at 16. “As the Ninth Circuit has recently indicated, vacatur under the APA sets aside unlawful actions and restore[s] the status quo.” *Id.* at 16 (cleaned up). The status quo in the absence of the Lyons Memo and *Yajure Hurtado* is that “[f]or nearly three decades, Respondents consistently considered noncitizens present in the United States without having been admitted or paroled as detained under 8 U.S.C. § 1226(a), thus entitling them to bond hearings.” *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 U.S. Dist. LEXIS 232321, at *11 (W.D. Tex. Nov. 26, 2025). In the absence of the Lyons Memo and *Yajure Hurtado*, these prior precedents control and prevent the application of mandatory detention to Petitioner. *Pacheco-Sanchez*, 2026 U.S. Dist. LEXIS 34665, at *5.

Furthermore, in Mr. Aguagallo’s specific case, the government already made a reasoned decision in 2023 to release him instead of detaining him. Resp. Ex. B [Dkt. 3-2]. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE has the authority to re-arrest a noncitizen and revoke their bond only where there has been a change in circumstances since the individual’s release. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any change in circumstances must be “material.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir.2018). That revocation authority is further “proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom.” *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS, at *35 (D. Ariz. Aug. 11, 2025) (*report and recommendation adopted sub nom. Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156336 (D. Ariz. Aug. 13, 2025)); *see also Vieira*, 2025 U.S. Dist. LEXIS 203930, at *16–17 (“once released from immigration custody, noncitizens

acquire a protectable liberty interest in remaining out of custody on bond.”) (cleaned up).

Mr. Aguagallo has established there is no legal basis for his detention. Although the Fifth Circuit has recognized in *Buenrostro* that §1225(b)(2) may textually apply to all “applicants for entry,” the vacatur of both *Matter of Yajure Hurtado* and the *Lyons Memo* mean that there is no legal basis for Respondents’ application of §1225(b)’s mandatory detention to petitioner. *Pacheco-Sanchez v. Holston, et al.*, U.S. Dist. LEXIS 34665, at *5 (vacatur of *Yajure Hurtado* invalidates legal basis for mandatory detention in petitioner’s case); *see also Franciscan All., Inc.*, 414 F. Supp. 3d at 934 (“courts typically ‘invalidate—without qualification—unlawful administrative rules as a matter of course, leaving their predecessors in place until the agencies can take further action.’”). Furthermore, the Fifth Amendment’s Due Process Clause renders §1225(b)(2) unconstitutional as applied to Mr. Aguagallo. *See generally Vieira*, 806 F. Supp. 3d. Because Mr. Aguagallo was examined by ICE at the border, placed into full removal proceedings, then released into the United States, he is not subject to mandatory detention under §1225(b)(1). Respondents do not contend that Mr. Aguagallo is detained pursuant to §1226, and therefore this Court is not obligated to consider §1226 as a basis for further detention. *Lara v. Bondi*, No. SA-25-CA-01581-XR, 2025 U.S. Dist. LEXIS 260529, at *10 (W.D. Tex. Dec. 16, 2025); *see also Reyes v. Thompson*, No. SA-25-CA-01590-XR, 2025 U.S. Dist. LEXIS 260531, at *10 (W.D. Tex. Dec. 12, 2025). Because there is no lawful basis for detention, Mr. Aguagallo’s immediate release is appropriate.

III. Mr. Aguagallo Maintains that § 1225(b)(2) is Inapplicable

Finally, Mr. Aguagallo maintains his position that § 1225(b)(2) does not apply to individuals like himself who have passed through the initial immigration inspection process and thereafter resided in the country for years. While Mr. Aguagallo acknowledges the Fifth Circuit’s decision in *Buenrostro*, he notes that its interpretation of § 1225(b)(2) is a minority position. *See*,

e.g., Mercado v. Francis, No. 25-CV-6582 (LAK), 2026 U.S. Dist. LEXIS 232876, at *9–10 & n.22 (S.D.N.Y. Nov. 26, 2025) (collecting cases and noting “The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States”); *Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 U.S. Dist. LEXIS 222044, at *3 n.2 (D. Minn. Nov. 4, 2025) (same); *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 U.S. Dist. LEXIS 194262, at *13 (D. Minn. Oct. 1, 2025) (same). As his petition explains, *see* Pet. ¶ 41, by its plain language, § 1225(b)(2) does not apply to Mr. Aguagallo or other noncitizens who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States. He reserves all rights with respect to this argument.

CONCLUSION

For the foregoing reasons, Mr. Aguagallo respectfully requests that this Court uphold his constitutional rights and grant his petition for habeas corpus.

Dated: March 2, 2026

Respectfully submitted,

/s/ Alexa Balderrama

Alexa Balderrama
State Bar No. 24123976
balderrama.alex@dorsey.com
DORSEY & WHITNEY LLP
200 Crescent Ct, Suite 1600
Dallas, TX 75201
214 981-9900(main)
214 981-9901(facsimile)

Attorneys for Petitioner
Alex Mauricio Carrillo Aguagallo

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2026, I electronically filed the foregoing document using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Alexa Balderrama

Alexa Balderrama