

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

	§	Civ. No. 5:26-cv-640-FB
	§	
Alberto Coria-Barriga,	§	
	§	
<i>Petitioner,</i>	§	
	§	
vs.	§	
PAM BONDI, United States Attorney	§	DHS File Number: 
General;	§	
	§	
KRISTI LYNN NOEM, Secretary of the	§	
United States Department of Homeland	§	
Security;	§	
	§	
TODD M. LYONS, Director of United	§	
States Immigration and Customs	§	
Enforcement;	§	
	§	
MIGUEL VERGARA,	§	
Field Office Director for Detention and	§	
Removal, U.S. Immigration and Customs	§	
Enforcement;	§	
	§	
BOBBY THOMPSON, Warden, South	§	
Texas Detention Facility	§	
	§	
<i>Respondents</i>		

RESPONSE OF PETITIONER TO THE RESPONDENTS' ANSWER

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I. INTRODUCTION

The Petitioner filed his habeas petition on February 2, 2026. Dkt. 1. The Court entered a show cause order requiring the Government respond within five days of service. Dkt. 3. The Respondents filed their opposition to the grant of the petition on February 11, 2026. Dkt. 4. Petitioner had seven days to reply. Petitioner now submits his reply to the Respondents' response.

The Respondents primary argument is that Petitioner is not entitled to the relief sought including attorney's fees under the Equal Access to Justice Act ("EAJA") and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) in accordance with the recent Fifth Circuit Court of Appeals holding. *Buenrostro v. Bondi*, No. 25-20496, --- F.4th --- 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). Respondents also assert that Petitioner's detention does not violate his due process rights because he is only entitled to due process provided in the statute citing *Department of Homeland Security v. Thuraissigiam* and several district courts. Dkt. 5 at 11. Finally, Respondents argued that an APA claim cannot be brought in a habeas and that Petitioner failed to exhaust his remedies.

Although *Buenrostro* forecloses a statutory basis for release in the Fifth Circuit for now, it leaves untouched the constitutional limits on immigration detention. Procedural due process remains a viable and effective ground for habeas relief, as reflected in numerous recent decisions within the Fifth Circuit. *Thuraissigiam* does not foreclose Petitioner's due process argument. *Thuraissigiam* was detained upon entry and subject to credible fear interview. When he did not pass the interview and was ordered removed, he sought habeas to review that denial and request relief. In Petitioner's case, he was admitted into the United States in 2006. He has resided in the country for twenty years. He is well established in the community and has deep ties in the Austin area. He has a pending application for cancellation

of removal based on the extreme and unusual hardship his United States citizen children would suffer if he were removed. Petitioner was already released on an immigration judge bond when he was unlawfully re-detained by Respondents. Respondents do not address Petitioner's argument that his statutory and due process rights were violated when Respondents re-detained him despite no significant change in circumstances and in violation of the statute and due process. Petitioner now files this reply to the Respondent's answer.

II. ARGUMENTS

A. Petitioner was previously released on an Immigration Bond, and Respondents Failed to Provide an Individualized, Case-by-Case review in Revoking Petitioner's Bond in Violation of Matter of Sugay, 8 C.F.R. 242.2(c) and his Procedural Due Process Rights

At a minimum, in order to lawfully re-arrest Mr. Coria-Barriga, the government must first establish, by clear and convincing evidence and before a neutral decision-maker that there has been a significant change in circumstances indicating that he is now a danger to the community or a flight risk, such that his re-incarceration is necessary. They must also obtain an arrest warrant. That has not happened here. ICE's re-arrest of Petitioner on December 13, 2025, violated the regulations, laws, and due process protecting him from arbitrary detention after his release on a valid immigration judge order.

Specifically, as applied to Mr. Coria-Barriga, the Respondents failed to follow the legal requirements for bond revocation. In 2011, he was released from detention after an immigration judge found he was not a danger to the community or a flight risk and granted him a \$5000 bond. Dkt. 1, Exh. 7. The purpose of his bond had not been met as his removal proceedings were pending. Despite this valid order, Mr. Coria-Barriga was re-arrested

without a warrant or notice of bond revocation in an Austin on December 13, 2025. At the time of his re-arrest, Mr. Coria-Barriga had a pending court date, valid employment authorization document, and a valid driver's license. He was not charged with any crime. Respondents have not provided any indication that Petitioner violated the terms of the 2011 immigration judge bond or that there was significant change in circumstances that warranted ICE to revoke his bond and re-detain him. It appears Respondents re-arrested him simply to meet detention quotas. The law does not support Respondents' arbitrary, harmful, and unlawful actions.

In *Matter of Sugay*, the Board of Immigration Appeals addressed this issue. 17 I&N Dec. 637 (BIA 1981). Sugay appealed an immigration judge's refusal restore a previous judge bond that was increased by the District Director finding that the circumstances had significantly changed between the judge's previous bond order and the District Director's increase of that bond. The changed circumstances were that Sugay had been ordered removed, had no stable address or employment, no close family ties, a previous murder conviction in the Philippines, a subsequent arrest for wielding a knife and that he jumped from a window when immigration officials tried to apprehend him. The Board explained that:

"While we recognize counsel's argument that where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change of circumstance, we find in the instant case that the newly developed evidence brought out at the deportation hearing, combined with the fact that the respondent has been ordered deported and his applications for suspension and withholding of deportation were denied, represent a considerable change in circumstances which justify the District Director's decision to raise the amount of bond." *Id.* at 640.

As opposed to the petitioner in *Sugay*, there has not been a sufficient change in circumstances here. Mr. Coria-Barriga has not been ordered removed. His application for cancellation of removal for certain non-legal permanent residents remains pending. He has maintained a stable

address and employment for over ten years. He has significant family ties to the community including his wife, USC children, and several siblings that all live in the Austin area and have frequent contact with him. Finally, he has not been arrested for any violent offense since his release on bond. Although he was cited for driving with an invalid license in 2017, this charge was dismissed upon proof of his valid driver's license and insurance. Mr. Coria-Barriga has not fled from immigration officials. In fact, he has continually renewed his employment authorization document and his Texas driver's license, which include his current address. There has not been a sufficient change in circumstances to justify Mr. Coria-Barriga's re-detention. The only change was the Respondents' policy that all non-citizens are subject to arrest and detention despite having been previously released after a finding that the non-citizen is neither a danger nor a flight risk.

Furthermore, Respondents failed to follow 8 C.F.R. 242.2(c) when they re-detained Petitioner. *Matter of Sugay* discusses section 242.2(c) as statutory authority for the District Director to take a non-citizen into custody despite a prior bond if there are significantly changed circumstances. *Sugay*, at 639. According to this statute, the department must have a warrant of arrest before they may take a non-citizen into custody including for re-detention. In fact section 242.2(c) is entitled "warrant of arrest" and it explicitly states "(1) At the time of issuance of the Order to Show Cause, or at any time thereafter and up to the time the respondent becomes the subject of a duly issued warrant of deportation, the respondent may be arrested and taken into custody under the authority of a warrant of arrest." The warrant must state the reasons for arrest that comply with the Fourth and Fifth Amendment. The department must inform the non-citizen of the reason for their arrest, that they have the right to an attorney, and that their statements may be used against them, among other warnings. *Id.* Here,

Respondents did not have an arrest warrant when they re-arrested Petitioner. He was not informed of the reasons for his re-detention or his rights to an attorney or that his statements may be used against him upon his re-detention. Mr. Coria-Barriga's re-detention violated the legal requirements of significantly changed circumstances and an arrest warrant as laid out in *Matter of Sugay* and 8 C.F.R 242.2(c) and therefore violated his statutory rights and procedural due process rights under the Fourth and Fifth Amendments.

This is analogous to the Respondents' violation of the statutory and procedural due process rights of non-citizens who are re-detained after DHS previously released them on parole. Case law nationwide that almost without exception finds that persons situated similarly to Mr. Coria-Barriga may not be subject to arbitrary re-arrest and mandatory detention without due process, *see, e.g., Martinez Rodriguez v. Raycraft*, 1:25-cv-1504, 2025 WL 3511093 at *7 (W.D. Mich., Dec. 8, 2025) ("[I]f Respondents did not follow the applicable statutory and regulatory requirements to properly revoke Petitioner's previously granted parole, then they did not have the authority to arrest and detain Petitioner, "unless there [wa]s some other valid reason to arrest him."). *See also Ramirez Tesara v. Wamsley*, where the District Court for the Western District of Washington rejected a similar argument: the court found that the government's "argument does not explain why [immigration authorities] found Petitioner to be eligible for parole [when they released him a year earlier], but not the following year even after he had established deep ties to the community . . . and timely filed an asylum application." *Ramirez Tesara v. Wamsley*, No. 2:25-CV-01723-MJP TLF, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12, 2025); *Magana Garcia v. Bondi*, No. 1:26-CV-51-ADA, report and recommendation adopted by Judge Albright (W.D. Tex. Jan 28, 2026) (granting immediate release on valid parole as Respondents did not lawfully revoke this status).

Respondents' arbitrary and unlawful act of re-arresting Mr. Coria-Barriga not only violates his statutory rights but only his procedural due process rights under the Fifth Amendment. *See e.g., Iza By His Next Friend Iza v. Larocco*, 2:25-cv-6915, 2025 WL 3712274 (E.D.N.Y., Dec. 22, 2025) (parolee's re-detention likely violated his procedural due process rights under the Fifth Amendment when he was detained by ICE in the parking lot of Home Depot without "any notice, an opportunity to respond, or an individualized determination that he posed a flight risk or danger to the community" before he was detained."); *See also Tenemasa-Lema v. Hyde*, 1:25-cv-13029-BEM at *9 (D.C. Mass. Nov. 25, 2025) (granting habeas for arriving alien finding that his re-detention violated his due process rights under *Mathews v. Elridge*, "[i]n need the Supreme Court has previously recognized that a non-citizen's 'ties' to this country can inform the substance of their constitutional protections even in the absence of strict physical presence...Thus, even without disturbing the metaphysical 'entry fiction' that may obstruct, in some sense, our ability to admit that a non-citizen is really 'here,' one can still constitutionally recognize Petitioner's actual life in this country – his years as part of the community – not so easily set aside. Whatever theoretical route one takes, the only conclusion is that Petitioner is a 'person' who cannot 'be deprived of life, liberty, or property, without due process of law.'" *See e.g., Acosta Dominguez v. Noem*, EP-25-CV-00741-DB (W.D. Tex. El Paso, Jan. 8, 2026) (granting habeas petition after revocation of parole without notice because noncitizen had due process rights under the Fifth Amendment and the INA applying the *Mathews v. Elridge* test and holding that 1252(b) is unconstitutional as applied to petitioner.) To correct this unlawful re-detention, this Court should apply the *Mathews v. Elridge* test and grant immediate release as prior bond was not properly revoked.

B. Respondents' Mandatory Detention of Petitioner Violates his Procedural Due Process Rights which is distinguished from the Fifth Circuit *Buenrostro* Decision

Buenrostro does not address, and therefore does not foreclose, the argument that an immigrant detained under 8 U.S.C. § 1225 is entitled to release, as a matter of constitutional law. Nor does it diminish the long-standing role of habeas corpus as a foundational mechanism for challenging unlawful executive detention. All persons within the United States possess a cognizable, protectable liberty interest in freedom from physical restraint in the most basic constitutional sense, and habeas corpus remains the fundamental instrument for safeguarding that liberty by ensuring immigration detention is not arbitrary, unlawful, or inconsistent with due process.

In line with this principle, multiple federal courts in the Fifth Circuit have granted habeas relief on procedural due process grounds notwithstanding the statutory limitations addressed in *Buenrostro*. See *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026) (granting habeas relief after acknowledging the Fifth Circuit's precedential decision in *Buenrostro* and noting the case "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) (also granting habeas relief after acknowledging the Fifth Circuit's precedential decision in *Buenrostro* and noting the case "does not change the case's outcome on procedural due process grounds."); *Singh v. Taylor*, 2026 WL 360913 (W.D. Tex. Feb. 9, 2026); *Monge Escoto v. Bondi*, 2026 No. EP-26-CV-283-KC, at *2 (W.D. Tex. Feb. 12, 2026) (granting habeas and finding "the Fifth Circuit only decided the statutory question and did not adjudicate the petitioners' due process claims"); *Rodriguez Flores v. Bondi*, No. EP-26-CV-00338-DB at *2 (W.D. Tex.

Feb.11, 2026) (“acknowledge[ing] the Fifth Circuit’s precedential decision in Buenrosto-Mendez held Respondents’ statutory interpretation of Section 1225(b)’s mandatory detention provision is correct. However, Buenrosto-Mendez does not change this case’s outcome on procedural due process grounds.”)

Prior to the Fifth Circuit’s Buenrosto decision, many district in the Western District had granted habeas relief on as applied due process grounds. See, e.g. *Santiago-Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), report and recommendation adopted, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025); *Rojas v. Noem*, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025); *De Leon Hernandez v. Bondi*, 2025 WL 3217037 (W.D. La. Nov. 18, 2025); *Chinchilla v. De Anda-Ybarra*, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025); *Vieira v. De Anda-Ybarra*, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Perez v. Noem*, 2025 WL 3532430 (N.D. Tex. Nov. 14, 2025).

Mr. Coria-Barriga asserts that the Respondents have violated his as applied Fifth Amendment due process rights. The government may not deprive a person 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 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE has the authority to detain non-citizens, however, this authority is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom.

The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025). Thus, noncitizens, such as Mr. Coria-Barriga, are entitled to due process protections. *See supra*; *see also Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *3 (6th Cir. Jan. 18, 2023); *Acosta Dominguez v. Noem*, EP-25-CV-00741-DB (W.D. Tex. El Paso, Jan. 8, 2026).

When the immigration judge granted Petitioner release on bond in 2011, Respondents did not appeal and accepted the final order of release. Likewise, when Petitioner's removal proceedings were administratively closed in 2017, Respondents did not oppose the closure. In both instances, Respondents determined Petitioner was not a flight risk or a danger to the community. For the past twenty years, Petitioner has established a family and community in the Austin area. There can be no doubt that he is "experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, ...lack of privacy, and, most fundamentally, the lack of freedom of movement." *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025).

The Supreme Court's *Mathews v. Eldridge* test provides the appropriate framework when determining what procedural safeguards are due, requiring courts to consider "(1) the private interest affected, (2) the risk of erroneous deprivation through the procedures used and the probable value of additional safeguard; and (3) the Government's interest, including the fiscal and administrative burdens of additional procedures." *Danierov v. Noem*, No. 2:25-cv-01215-KG-KRS, 2025 WL 3653925, at *2 (D.N.M. Dec. 17, 2025)(quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)) (internal quotations omitted); *Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025).

Indeed, many district courts have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights. *See, e.g., J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025). In the majority of these cases, the Court found that the government had no or an insignificant interest in detaining the petitioner. *See J.U.*, 2025 WL 2772765, at *10; *Zumba*, 2025 WL 2753496, at *10.

In *Santiago v. Noem*, Judge Cardone of the Western District of Texas, El Paso Division, granted the petitioner immediate release through a writ of habeas corpus on as applied procedural due process grounds. 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025). Although this case was decided before *Buenrostro* in the Fifth Circuit, she reiterated her reasoning in *Monge Escoto v. Bondi*, 2026 No. EP-26-CV-283-KC, at *2 (W.D. Tex. Feb. 12, 2026) which was decided post-*Buenrostro*.

In both cases, Judge Cardone explicitly focuses on the as applied due process violation issue as independent from the 8 U.S.C. § 1225 issue. She found that the petitioner had a liberty interest in remaining free from detention. *Id.* at *10. Applying the Mathews test, the Court found that the petitioner has a private interest in being free from physical detention. There is a high risk of erroneous detention due to no individualized review of her detention, and that the government had a low interest in maintaining her detention to seek a removal order against her as there was no evidence of flight risk or danger to the community. *Id.* at *10-*14.

Likewise, Mr. Coria-Barriga has a high liberty interest in being free from detention due to his 20 years in the United States, the risk of erroneously deprivation is high due to no individualized review of flight risk or danger to the community factors, and the government interest in maintaining Petitioner's detention to seek a removal order against him is low.

1. Private Interests

Turning to the first Mathews factor, “‘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, at *2 (W.D. Tex. Sept. 8, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Petitioner has a substantial private interest in remaining free from detention. Federal courts in Texas have found that noncitizens have a protected liberty interest in their freedom, regardless of citizenship status, 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-25-CV-584-KC, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025); *Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025) (finding noncitizen has protectable liberty interest because he was “living in the United States for over four years and attends his local church”); *Hernandez-Fernandez*, 2025 WL 2976923 at *9 (“Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention.”). Petitioner resided at liberty within the U.S. for over 20 years, and during that time, he established extensive ties and life in the community including a stable address, employment, and caring for his wife and two United States citizen children.

2. Risk of Erroneous Deprivation

Second, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the petitioner] has not received any bond or custody redetermination hearing” since his re-detention. *A.E. v. Andrews*, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025). Civil immigration detention, which is “nonpunitive in purpose and effect[,]” is justified when a noncitizen presents a risk of flight or danger to the community. *See Zadvydas*, 533 U.S. at 690; *Padilla v. U.S. Immigr. & Customs Enft.*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023). The immigration judge already

found that Mr. Coria-Barriga was not a flight risk or danger to the community in 2011. The government's unlawful re-arrest of Mr. Coria-Barriga and their refusal to provide bond hearing now creates a high risk of erroneous deprivation, since the process afforded in removal proceedings does "not ameliorate the risk that [a petitioner] will be erroneously deprived of his liberty while his removability is assessed." *See Rojas v. Noem*, 2025 WL 3038262 at *3-*4. Bond hearings that "conduct individualized custody determinations considering flight risk and dangerousness" are the precise "type of proceeding that would give [a noncitizen] an opportunity to be heard and to receive a meaningful assessment of whether he is dangerous or likely to abscond." *Id.* at *4.

Petitioner is not a flight risk or danger to the community. The government does not dispute this and did not present evidence that petitioner was a flight risk or danger to community. Nonetheless, ICE re-detained him, without an arrest warrant, and the government has not given any reason why it did so. Petitioner has not been provided with any procedural safeguards to determine whether his 2011 bond was revoked, why it was revoked, and why his re-detention is justified under the statute or the Fifth Amendment. Given the absence of any procedural safeguards, the probable value of additional procedural safeguards is high.

3. Government's Interest

Third, regardless of the government's purported interest in enforcing its interpretation of the immigration detention statutes, a habeas petitioner's "constitutional interest in his liberty exists above and apart from the INA." *Rojas*, 2025 WL 3038262 at *4 (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.")). The government's interest in detaining petitioner without procedural safeguards is low. The government's interest is further diminished where a person has consistently appeared for his immigration hearings and has a minor criminal record. *See Pinchi v. Noem*, No.

25-CV-05632-RMI (RFL), 2025 WL 1853763 at *2 (N.D. Cal. July 4, 2025) (citing *Martinez v. Noem*, 2025 WL 2598379 at *4 (W.D. Tex. Sep. 8, 2025)). On balance, the Mathews factors show that Petitioner is entitled to additional procedural safeguards. Were this Court to grant relief by requiring the immigration judge provide a bond hearing, the immigration judge would find he lacks jurisdiction to conduct the hearing citing to *Yajure Hurtado* and *Buenrostro*. Immediate relief is appropriate in this case.

C. Scope of Relief Requires Immediate Relief

As to the appropriate remedy, Petitioner requests that he be immediately released from custody. This is because a bond hearing would only be an appropriate remedy where “the government has at least some articulable, legitimate interest in detaining the petitioner,” but immediate release is appropriate where “the government had no or an insignificant interest in detaining the petitioner.” *Santiago v. Noem*, 2025 WL 2792588 at *13. Furthermore, immigration judges do not have jurisdiction to re-determine custody decisions of persons detained under 1225 as arriving aliens after the Fifth Circuit’s erroneous decision in *Buenrostro*.

When Judge Crossan released Mr. Coria-Barriga’s on bond in 2011, he did so because he determined he was not a flight risk or a danger to the community. Given the absence of evidence of urgent concerns, this Court should conclude that Respondents violated his as applied statutory and procedural due process rights when they re-arrested him. There are no significant changes in circumstances that justify the Respondents’ revocation of this bond. Respondents lacked an arrest warrant they re-detained him and failed to provide him on “a pre-deprivation hearing is required to satisfy due process.” *Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677 at *9 (N.D. Cal. July 17, 2025). Numerous district courts have reached a similar conclusion. *See, e.g., id.*; *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR, 2025 WL 1927596 at *5 (E.D. Cal.

July 14, 2025); *Pinchi*, 2025 WL 1853763, at *3–4; *Singh v. Andrews*, No. 1:25-CV-00801-KES-SKO (HC), 2025 WL1918679 at *6 (E.D. Cal. July 11, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207 at *1 (N.D. Cal. Sept. 5, 2025)

D. Exhaustion of Administrative Relief is Futile

Respondent asserts that Petitioner should first fully exhaust administrative remedies by seeking relief with the immigration court or the BIA before seeking relief from this Court. Mr. Coria-Barriga sought a bond hearing because he was admitted to the United States in 2006. However the judge found he was subject to mandatory detention on January 30, 2026 and denied jurisdiction. This finding was based on an error in the record where Mr. Coria Barriga had apparently and incorrectly conceded he entered without inspection in 2012. Appealing this fact issue related to the denial of jurisdiction to the BIA would require the Mr. Coria-Barriga to be subject to prolonged detention as the typical bond appeal is a several month process. Further, given that the Board of Immigration Appeals will likely affirm that Mr. Coria Barriga is subject to mandatory detention, an appeal of the bond denial is futile and is not required as a prolonged appeal process would inflict irreparable harm on him and prolong his detention in violation of due process.

E. Petitioner Re-Urges Relief under Maldonado Bautista and Violations of the Administrative Procedures Act (APA)

Petitioner re-urges his claims for relief relating to his class membership in Maldonado Bautista. Dkt. 1 at 20 – 25. In light of the Fifth Circuit’s decision in Buenrostro, Petitioner’s only relief is immediate relief despite the mandates of Maldonado Baustista due to Yajure Hurtado and Buenrostro.

Petitioner also urges his Administrative Procedures Act violation claim. Dkt. 1 at 31-32. The Fifth Circuit did not squarely address this claim in *Buenrostro*. Respondents are unlawfully detaining Petitioner thereby improperly altering the substantive rules concerning mandatory custody status without the required notice-and-comment period and would be in violation of the INA and its regulations. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is “contrary to constitutional right, power, privilege or immunity.” 5 U.S.C. § 706(2)(B). The regulations at 8 C.F.R. §§ 1003.19(h)(1)(B) and 1003.19(h)(2)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted ICE by Congress at 8 U.S.C. § 1226(a). See *Y-Z-L-H v. Bostock*, 792 F. Supp.3d 1123 (D. Oregon July 9, 2025) (granting habeas based on APA claims.); *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), report and recommendation adopted, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025).

III. CONCLUSION

Petitioner has a fundamental interest in liberty and being free from official restraint. The government’s re-detention of Petitioner without bond to violates his right under the statute and his procedural due process as applied. For the foregoing reasons, the Court should grant Mr. Coria-Barriga’s petition for habeas corpus and order his immediate release.

Respectfully submitted this 18th day of February, 2026.

/s/ Nicole L. True

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing RESPONSE OF PETITIONER TO THE RESPONDENTS' ANSWER in the case of Alberto Coria-Barriga v. Pamela Bondi, et al., Civil Action 26-cv-00640-FB, was sent to Assistant United States Attorney Gerald R. Krimbill via the CM/ECF Pacer system.

Service on the United States Attorney constitutes service on all named federal Respondents in this matter, and service has also been made directly on the Warden as Petitioner's immediate custodian.

Dated this 18th day of February, 2026

/s/ Nicole True

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