

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

REBECCA SANCHEZ-DIAZ,

Petitioner,

v.

**MARY DE ANDA-YBARRA, Field Office
Director of Enforcement and Removal
Operations, El Paso Field Office,
Immigration and Customs Enforcement;**

**Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. Department of
Homeland Security;**

**Pamela BONDI, U.S. Attorney General;
Executive Office for Immigration Review;**

Warden of the El Paso Processing Center;

Respondents.

Respondents.

Civil Action Case No. 3:26-cv-351-DCG

**Petitioner's Response to Respondent's
Order to Show Cause (ECF NO.6) and
attachments**

**PETITIONER'S RESPONSE TO RESPONDENTS' ORDER TO SHOW
CAUSE (ECF No. 6) and attachments**

I. Preliminary Objection: Improper Service

I. Preliminary Answer and Objection: Improper Service of Respondents Order to Show Cause

1. Respondents' Order to Show Cause was filed without a certificate of service, in violation of Local Rule W.D. Tex. Loc. R. CV-5(a) (Service and Filing Requirements), which

requires that all filings submitted to the Court include a certificate showing the date and manner of service on all other parties.

2. Even if Respondent later filed a separate certificate of service, it was not attached to or incorporated into the main filing, preventing Petitioner from verifying that proper notice was provided in compliance with the Local Rules and the Federal Rules of Civil Procedure.
3. Accordingly, under this court discretion, Petitioner respectfully requests that the Court the Strikes answer the Respondents Order to Show Cause [ECF No 6.]; if the court does not strike the answer of the Respondents Order to Show Cause, Petitioner ask this court to consider her reply below.

II. Substantive Responses

Petitioner, Rebecca Sanchez-Diaz, denies all arguments and exhibit C, ECF No 6-3, of Respondent's Response to Order to Show Cause relating to any assertions disputing her challenge to the constitutionality of her detention under the Fifth Amendment's Due Process Clause.

III. Factual and Procedural Posture

Ms. Sanchez-Diaz is a citizen of Mexico who entered the United States in or around February 1, 2022. She has resided in the interior of the United States since that time.

She was taken into immigration custody in June 2025 and remains detained at the El Paso Processing Center.

The Department of Homeland Security issued a Notice to Appear on August 26, 2025. She is in full removal proceedings under 8 U.S.C. § 1229a. A master calendar hearing is scheduled for March 18, 2026.

On February 3, 2026, an Immigration Judge denied custody redetermination for lack of jurisdiction based on the Government's position that detention falls under § 1225(b)(2)(A). The deadline to appeal to the Board of Immigration Appeals is March 5, 2026.

Ms. Sanchez-Diaz has a pending Form I-130 petition as well as a Military Parole in Place application. She is married to a U.S. citizen and maintains strong ties to this country. Military Parole in Place is available exclusively to qualifying family members of U.S. military service members. Her pending application demonstrates both substantial community connections and a direct link to a military family, providing a compelling incentive to attend all immigration proceedings. By the time of her March 18, 2026, hearing, she will have been detained for approximately *nine* months without any individualized custody determination.

III. Buenrostro Does Not Resolve the Constitutional Question

Respondents rely heavily on the Fifth Circuit's published decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026), as binding precedent for the proposition that applicants for admission are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) until the completion of removal proceedings and therefore have no statutory right to a bond hearing.

That reliance is misplaced. The Fifth Circuit in *Buenrostro-Mendez* expressly confined its analysis to a question of statutory interpretation. The court did not address, nor did it resolve

whether prolonged detention under § 1225(b)(2)(A) without an individualized hearing violates the Due Process Clause of the Fifth Amendment. Accordingly, Buenrostro-Mendez does not control the distinct constitutional question presented here: whether Petitioner's continued detention without a bond hearing violates her right to procedural due process.

Indeed, even prior to Buenrostro-Mendez, district courts within the Fifth Circuit including courts in this District were granting habeas relief to similarly situated petitioners on procedural due process grounds, applying the balancing framework set forth in *Mathews v. Eldridge*. See, e.g., *Lopez-Arevalo v. Ripa*, 801 F. Supp. 3d 668 (W.D. Tex. 2025); *Vieira v. De Anda-Yabarra*, 806 F. Supp. 3d 690 (W.D. Tex. 2025); *Hernandez-Fernandez v. Lyons*, No. 25-cv-00773, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Parada-Hernandez v. Johnson*, No. 25-cv-2729, 2025 WL 3465958 (W.D. Tex. 2025), report and recommendation adopted, 2025 WL 3463682.

These decisions recognize that, notwithstanding the statutory detention framework, prolonged detention without an individualized bond hearing may violate procedural due process under *Mathews v. Eldridge*, 424 U.S. 319 (1976). Because Buenrostro-Mendez did not consider or decide that constitutional issue, it does not foreclose this Court's independent obligation to assess whether Petitioner's continued detention comports with due process. In the absence of an identified constitutional holding, the Court should treat *Buenrostro* as currently controlling on the detention statute but *not* dispositive of whether the Constitution imposes as-applied limits on the *length* or *reasonableness* of civil detention. In summary, the Fifth Amendment's due process protections ensure that individuals, including noncitizens such as the Petitioner, are safeguarded against arbitrary government actions.

**IV. PETITIONER'S CONTINUED DETENTION VIOLATES THE FIFTH
AMENDMENT DUE PROCESS CLAUSE**

IV.I. Procedural Due Process Right Violation and Substantive Due Process

Right Violation:

IV.I.A. Petitioner Possesses a Cognizable Liberty Interest

The Fifth Amendment to the United States Constitution protects “persons,” not merely citizens. Civil immigration detainees therefore possess a protected liberty interest in freedom from physical restraint. Respondents concede that noncitizens are “persons” within the meaning of the Constitution and therefore possess a protected liberty interest. Even when the Government labels such individuals as “aliens,” they remain persons; human beings are present within the sovereign territory of the United States. As such, they are entitled to the protections of the Constitution. The Constitution and its Amendments are the supreme law of the land and take precedence over any conflicting federal statute. Even assuming the Fifth Circuit’s interpretation of 8 U.S.C. § 1225(b)(2)(A) mandates detention of certain applicants for admission during the pendency of removal proceedings, such detention is civil not punitive in nature. As a matter of constitutional law, civil detention must bear a reasonable relationship with its legitimate governmental purposes. If detention becomes excessive or no longer reasonably related to those purposes, it raises serious concerns under the Due Process Clause of the Fifth Amendment.

The Supreme Court has repeatedly recognized that immigration detention implicates constitutional liberty interests. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). Courts must have the authority to determine whether continued detention has become constitutionally unreasonable.

IV.I. B. Civil Detention Must Remain Reasonably Related to Its Purpose

Ms. Sanchez-Diaz has been detained since June 2025. By the time of her March 18, 2026, hearing, she will have been confined for approximately *nine* months without a bond hearing. Nine months of civil detention without an individualized bond hearing is constitutionally excessive. Immigration Judges have repeatedly declined to conduct bond hearings, asserting that they lack jurisdiction over noncitizens detained under 8 U.S.C. § 1225. Civil immigration detention must remain reasonably related to legitimate regulatory purposes. The Supreme Court has repeatedly recognized that prolonged civil detention raises serious constitutional concerns. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Court identified six months as a critical benchmark for assessing the reasonableness of post removal detention. Ms. Sanchez-Diaz's detention has already exceeded eight months and is approaching nine months, with proceedings still ongoing and no individualized determination of necessity. Courts frequently recognize that detention approaching or exceeding the six-to-twelve-month range without a bond hearing becomes constitutionally suspect. The Government contends that flight risk and dangerousness are irrelevant under 8 U.S.C. § 1225. That argument conflates statutory language with constitutional limits. The Fifth Amendment does not permit months of executive confinement without a neutral determination that detention is necessary to serve its regulatory purpose.

Here, the Government's interests are not meaningfully advanced by automatic detention. Ms. Sanchez-Diaz has a pending I-130 petition and a Military Parole in Place applications. Her eligibility for Parole in Place arises from a qualifying relationship to a United States military service member. That fact alone strongly undermines any suggestion that she is likely to abscond. She has every incentive to appear at all proceedings and pursue lawful relief, as doing so provides

her with a legal pathway to obtain lawful permanent resident status and, in the future, the opportunity to apply for United States citizenship.

IV.I.C. Petitioner's Detention Has Become Unreasonably Prolonged and Government Interference with Access to Pending Relief Contributes to Constitutional Unreasonableness

As detention lengthens, categorical confinement becomes excessive in relation to its stated purposes. Even under rational basis review, civil detention cannot become arbitrary through duration alone. Over six months of confinement without an individualized custody hearing crosses the line from administrative processing into constitutionally prolonged detention. Petitioner has a properly filed Military Parole in Place (PIP) application pending before USCIS. While Petitioner does not claim a constitutional entitlement to PIP approval, she does possess a right not to be subjected to arbitrary government action that prolongs her detention. By preventing Petitioner from attending required biometrics, mandatory prerequisite to adjudication of her Military Parole in Place, ECF No 02-6, Respondents are:

- Interfering with adjudication of pending relief by hindering completion of mandatory steps for relief adjudication,
- Contributing to the length and indefinite detention, and
- Undermining the asserted purpose of detention by denying her a meaningful opportunity to pursue relief that could materially affect her immigration status.

When the Government itself delays or obstructs the resolution of removal proceedings, continued mandatory detention becomes constitutionally questionable. If detention is prolonged in part because of government-imposed obstacles to processing relief, *due process* requires, at a

minimum, an individualized review of whether continued custody is justified. Petitioners' due process rights include the right to meaningful participation in proceedings affecting her liberty.

The Fifth Amendment's guarantees that "No person shall be deprived of life, liberty, or property, without due process of law." (*U.S. Const.* amend. V.) applies here. The Government is causing delays that prevent the Petitioner from taking the necessary steps to pursue relief in her removal proceedings. Her continued detention is no longer reasonable, and, as civil not punitive detention, it must comply with constitutional due process protections. Therefore, detention without an opportunity for meaningful individualized custody determination is unlawful on statutory and constitutional procedural due process ground.

Furthermore, the violation under substantive due process requires the government restrictions on fundamental liberty be justified by a compelling interest and be narrowly tailored. Petitioner's detention also violates substantive due process because it is not narrowly tailored to serve a compelling government interest. The government action is arbitrary, excessive and not justified by a compelling interest. The Congress interest when created the Military Parole in Place immigration benefit was particularly for specific individuals like the Petitioner to proceed with the procedural process of the application.

The Fifth Amendment's Due Process Clause protects noncitizens from arbitrary detention, as recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020). In *Mahdawi v. Trump*, 781 F. Supp. 3d 214 (2025) when, the court highlighted that noncitizens, including lawful permanent residents, are entitled to constitutional protections, including freedom from detention that lacks sufficient justification or procedural safeguards. Similarly, Petitioner has a dismissed charge, no criminal pending charges or convictions; and the

government has not justified the necessity of continued detention in light of the dismissal of her criminal charge. The dismissal of her criminal charge undermines any argument that the petitioner poses a public safety risk, which is often a justification for detention for Respondents. The Petitioner has significant ties to the United States as demonstrated in her Amended Petition for Habeas Corpus and those factors were not justified by the Respondent for keeping Petitioner detained. The Petitioner pursues legal avenues to regularize her immigration status. The failure of the Respondents to assist with her biometrics appointment also supports a claim of procedural unfairness or arbitrary detention. The Petitioner detention is unlawful, particularly if Immigration judges lack justification to analysis the continuation of her detention, it violates due process and impedes her ability to pursue legal remedies. In *Mahdawi v. Trump*, 781 F. Supp. 3d 214 (2025) when detention is excessive, arbitrary, and not justified by any such reasonable interest relation to any legitimate government purpose and was instead motivated by punitive objectives, it is rendering it unconstitutional under both procedural and substantive due process principles. The court also emphasized that detention must be narrowly tailored to serve compelling state interests, and any deviation from this principle could constitute a substantive due process violation. The detention of the Petitioner is used as a tool for punishment, rather than for legitimate governmental objectives. Petitioner's detention has raised a substantive due process claim because it bears no reasonable relation to any legitimate government purpose.

If the government wishes to detain a noncitizen as punishment for violating this nation's immigration laws, it must do so on the basis of a criminal statute and only after conducting a criminal prosecution. *See Wong Wing v. United States*, 163 U.S. 228, 16 S. Ct. 977, 41 L. Ed. 140 (1896). Immigration detention cannot be motivated by a punitive purpose. The United States District Court for the District of Minnesota has recognized that immigration detention must remain

nonpunitive in purpose and effect . Mohammed H. v. Trump, 786 F. Supp. 3d 1149 (2025), Mohammed H. v. Trump, 781 F. Supp. 3d 886 (2025).

IV.I.D Violation of Administrative Procedure Act.

Under the Administrative Procedure Act some courts have found that re-detention of individuals previously released, without material changed circumstances, is arbitrary and capricious in violation of the APA. See. Rios v. Noem, 2025 U.S. Dist. LEXIS 221626 (2025)

The Administrative Procedure Act (APA) provides a framework for judicial review of agency actions, requiring courts to "hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" 5 U.S.C. § 706(2)(A) (2018). In the context of immigration detention, the APA applies to ensure that agency decisions, such as re-detention or prolonged detention without a bond hearing, are rational, supported by evidence, and procedurally fair. Under the Administrative Procedure Act some courts have found that re-detention of individuals previously released, without material changed circumstances, is arbitrary and capricious in violation of the APA. See. Rios v. Noem, 2025 U.S. Dist. LEXIS 221626 (2025).

In , Rios v. Noem, 2025 U.S. Dist. LEXIS 221626 (2025), the court found that the re-detention of an individual previously released on supervised release, without a material change in circumstances, violated the APA. The court emphasized that the agency's action was arbitrary and capricious because it lacked individualized legal justification and failed to provide a rational explanation for the revocation of supervised release. Similarly, in , Y-Z-L-H v. Bostock, 792 F. Supp. 3d 1123 (2025), the court held that unexplained inconsistencies in agency actions, such as terminating parole without articulating a rational basis, constituted arbitrary and capricious conduct in violation of the APA.

In *Mathews v. Eldridge*, 424 U.S. 319 (1976) the Supreme Court set out a three-part balancing framework for determining whether procedural due process has been satisfied. Under this test, courts must evaluate: (1) the individual's private interest that is affected by the government's action; (2) the likelihood that the procedures used will wrongly deprive the individual of that interest, as well as the potential benefit of additional or alternative safeguards; and (3) the government's interest, including the financial and administrative costs that additional procedures would impose. The Court made clear that due process is not rigid or mechanical; rather, it is a flexible standard that must be applied in light of the particular facts and circumstances of each case.

In *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020) addresses that expedited removal and the scope of habeas review for individuals apprehended near the border shortly after entry. Ms. Sanchez-Diaz is not in expedited removal. She is currently subject to full removal proceedings under 8 U.S.C. § 1229a, which governs the initiation and conduct of removal proceedings before an Immigration Judge. Section 1229a provides that noncitizens may contest removal, present evidence, and seek relief or protection under the Immigration and Nationality Act, ensuring that the proceedings are conducted in accordance with due process. Petitioner has been physically present in the United States since February 2022 and is detained within the interior. This case concerns prolonged executive detention pending adjudication, not summary border screening. Nothing in *Thuraissigiam v. United States* authorizes prolonged civil detention within the United States without a meaningful, individualized custody review. The Fifth Amendment continues to place limits on executive detention. Neither *Thuraissigiam* nor the Respondents have demonstrated that noncitizens are categorically deprived of Fifth Amendment protection against

arbitrary or excessive physical detention during the pendency of full removal proceedings under 8 U.S.C. § 1229a.

Respondents deny that the Petitioner is a person with the assertion: “*Nothing in law allows an alien to adversely possess additional due process rights by virtue unlawfully entering in the United States and successfully evading enforcement for some length of time-especially when the nine years of lawful presence in Kaplan did not suffice*”, ECF No 6, page 12. Respondent wholly ignores the supremacy of the Fifth Amendment’s Due Process Clause, which protects all “persons” within the United States. The assertion that the Petitioner is not a “person” but an extraterrestrial being is entirely unsupported and contrary to law; the government bears the burden of proving such a claim, which it has not done.

The petitioner is not under 8 USCS § 1226 (c) as the case of *Demore v. Hyung Joon Kim*, 538 U.S. 510 (2003). The Petitioner has no pending criminal proceedings and no prior criminal convictions.

V. Exhaustion Does Not Bar Habeas Relief

The Immigration Judge denied bond on the basis of “lack of jurisdiction” (ECF No. 6-2), despite acknowledging that the Petitioner is a member of the *Maldonado Bautista* class (*Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, ECF No. 116 (C.D. Cal. Feb. 18, 2026)), in which *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), was vacated. The decision of *Maldonado Bautista v. Santacruz Jr* conflicts with the Fifth Circuit’s holding in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026). *Maldonado Bautista v. Santacruz* confirms that 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), governs the detention of class members such as the Petitioner. Because the agency has determined that

Immigration Judges lack authority to conduct bond hearings under 8 U.S.C. § 1225, further administrative appeal cannot provide relief. Accordingly, habeas corpus provides the appropriate mechanism to challenge the Petitioner's continued detention.

V.I. Conclusion

The Petitioner's prolonged detention under 8 U.S.C. § 1225(b)(2)(A) violates both procedural and substantive due process. She has been denied a meaningful, individualized custody review, depriving her of a core procedural safeguard required under the Constitution and applicable statutes. Substantively, freedom from physical restraint is a fundamental liberty interest (*Padilla v. Immigration & Customs Enf't*, 953 F.3d 1134 (2020); *J.U. v. Maldonado*, 805 F. Supp. 3d 482 (2025); *Valdez v. Joyce*, 803 F. Supp. 3d 213 (2025)), and civil detention must be narrowly tailored to serve a compelling government interest (*Mahdawi v. Trump*, 781 F. Supp. 3d 214 (2025)). Here, the Petitioner's detention is excessive, arbitrary, and not justified by any such interest, rendering it unconstitutional under both procedural and substantive due process principles, even within the framework of § 1225(b)(2)(A) detention. "[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004) (plurality opinion) (citing U.S. Const., Art. I, § 9, cl. 2). "At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention" *Kapoor v. DeMarco*, 132 F.4th 595, 610 (2d Cir. 2025) (quoting *INS v. St. Cyr*, 533 U.S. 289, 301, 121 S. Ct. 2271, 150 L. Ed. 2d 347 (2001)). Indeed, the protections of the "Great Writ" of habeas corpus "have been strongest" in that context. *St. Cyr*, 533 U.S. at 301. Respondents' position would permit extended civil detention without

individualized review based solely on categorical statutory language. The Constitution does not allow executive confinement of that magnitude without due process right.

V.II. Requested Relief

The Petitioner does not seek termination of her removal proceedings but instead challenges the constitutionality of her detention as unreasonable and excessive. Accordingly, Petitioner, Ms. Sanchez Diaz, respectfully requests that this Court:

1. Declare that her continued detention violates her Fifth Amendment right to due process;
and
2. Order the Respondents to release her immediately so that she may proceed with her USCIS applications and procedural biometrics appointments, or, in the alternative, direct the Immigration Judge to conduct a bond hearing, placing the burden on Respondents to demonstrate whether or not she poses a flight risk or a danger to the community.

For the foregoing reasons, the Petition should be granted.

Dated: February 27, 2026,

Respectfully submitted,

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