

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

Juan Jose Espinoza Guillen,

Petitioner,

vs.
PAM BONDI, United States Attorney
General; et. al.

Respondents

§ Civ. No. 1:26-CV-295-RP

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RESPONSE OF PETITIONER TO THE RESPONDENTS' ANSWER

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I. INTRODUCTION

The Petitioner filed his habeas petition on February 6, 2026. Dkt. 1. The Court entered a show cause order requiring the Government respond by February 13, 2026. Petitioner was ordered to reply to the Government's Response by February 18, 2026. Dkt. 3. The Respondents filed their opposition to the grant of the petition on February 13, 2026. Dkt. 5. Petitioner now submits his reply to the Respondents' response.

The Respondents primary argument is that Petitioner 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). Dkt. 5 at 1-9. 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 10 - 12. Finally, Respondents argued that an APA claim cannot be brought in a habeas and that Petitioner failed to exhaust his remedies. Dkt 5 at 12-13.

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 entered the United States without inspection in 2005. He has resided in the country for twenty years. He is well established in the community and has deep ties in the Red Rock, Texas with his family and siblings. He is eligible for application for

cancellation of removal based on the extreme and unusual hardship his United States citizen father would suffer if he were removed. Petitioner now files this reply to the Respondent's answer.

II. ARGUMENTS

A. 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 *Buenrostro-Mendez* held Respondents’ statutory interpretation of Section 1225(b)’s mandatory detention provision is correct. However, *Buenrostro-Mendez* does not change this case’s outcome on procedural due process grounds.”)

Prior to the Fifth Circuit’s *Buenrostro* decision, many district in the Western District had granted habeas relief on as applied due process grounds. See, e.g. *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. Espinosa-Guillen 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. Espinosa-Guillen, 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). For the past twenty years, Petitioner has established a family and community in the Red Rock area. He works to support his parents and siblings. 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. Espinosa-Guillen 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 parents and siblings.

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 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). Mr. Espinosa-Guillen is not flight risk or danger to the community. He has resided here for over twenty years. Although he was arrested for marijuana possession in 2013, the charge was dismissed. He no criminal convictions. The government refusal to provide bond hearing for Petitioner 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. 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 a strong community and has no criminal convictions. *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 release is appropriate in this case.

B. Scope of Relief Requires Immediate Release

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*.

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 arrested him on January 30, 2026. Respondents lacked an arrest warrant when they 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)

C. 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. Seeking a bond hearing before the immigration judge is futile as the judge would assert that he lacked jurisdiction. Appealing this denial of jurisdiction to the BIA would require the Mr.

Espinosa-Guillen 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 affirm that Mr. Espinosa-Guillen 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.

D. 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 29-30. 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 detention of Petitioner without bond violates his right under the statute and his procedural due process as applied. For the foregoing reasons, the Court should grant Mr. Espinosa-Guillen's petition for habeas corpus and order his immediate release.

Respectfully submitted this 18th day of February, 2026.

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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 Juan Jose Espinosa-Guillen v. Pamela Bondi, et al., Civil Action 26-cv-00295-RP, 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

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