

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

RAUDEL AMADOR-BARRIOS,

Petitioner,

v.

Todd LYONS, in his capacity as Acting
Director, Immigration and Customs
Enforcement; **Kristi NOEM**, Secretary, U.S.
Department of Homeland Security; **Pamela
BONDI**, U.S. Attorney General; **EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
WARDEN**, of El Paso Processing Center, El
Paso, Texas

Respondents.

Case No. 3:26-cv-383

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Raudel Amador Barrios is in the physical custody of Respondents at the El Paso Processing Center in El Paso, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) re-detained Petitioner without a pre-deprivation bond hearing in violation of his Constitutional rights.

2. Petitioner's claim is not foreclosed by the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, 25-20496 (5th Cir. 2026). In *Buenrostro*, the Fifth Circuit held that non-citizens who entered without inspection are subject to mandatory detention under Section 1225, and thus, they may not request a bond hearing under Section 1226. However, the Fifth Circuit did not review the associated Constitutional claims. Since the Fifth Circuit only reviewed the statutory claims, this Court may review Mr. Amador-Barrios' constitutional claims in this Petition.

3. This Court has previously determined that non-citizens have constitutional claims to their liberty that exist outside of the INA. *Smirnov v. De-Anda*, 3:25-cv-00669-KC, (W.D. Tex. Dec. 23, 2025).

4. Alternatively, Mr. Amador Barrios argues that Respondents released him under Section 1226 (INA § 236) after he was detained at the border in 2022, and therefore, Respondents cannot re-detain him under Section 1225. *Moreno-Madrid v. Acuna*, 3:25-CV-01572, *9-10, (W.D. La. Dec. 12, 2025)

5. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate release from custody because he should not have been re-detained without a pre-deprivation bond hearing.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the El Paso Processing Center in El Paso, Texas

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioner currently is detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

12. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

13. Petitioner, Raudel Amador-Barrios, is a citizen of Cuba who is detained at El Paso Processing Center in El Paso, Texas

14. Prior to being detained, Ms. Amador Barrios was living in Florida. He last entered the United States on or about March 6, 2022, and he was detained by DHS upon entry. DHS released him on his own recognizance at the border. For the last three years, he had been living freely in the United States.

15. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As such, Acting Director Todd Lyons is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

17. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

18. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

19. Respondent Warden is employed as the Jail Administrator of the El Paso Processing Facility in El Paso Texas, where Petitioner is detained. He or she has immediate physical custody of Petitioner. He or she is sued in their official capacity.

LEGAL FRAMEWORK

Due Process

20. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or federal law. 28 U.S.C. § 2241.
21. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation omitted).
22. Immigration detention is civil and must “bear[] a reasonable relation to the purpose for which the individual [is detained]” so that it is “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See id.* at 683; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). “Retribution

and deterrence are not legitimate nonpunitive governmental objectives.” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979).

Petitioner’s Claim is Distinguishable from *Buenrostro-Mendez v. Bondi*

23. Petitioner’s claim is not foreclosed by the Fifth Circuit’s decision in *Buenrostro-Mendez v. Bondi*, 25-20496 (5th Cir. 2026).

24. **First, *Buenrostro-Mendez* had entered the U.S. without inspection and had never had contact with immigration.** Unlike *Buenrostro-Mendez*, Mr. Amador Barrios had previously been detained by immigration and released under Section 1226. Mr. Amador Barrios therefore has a liberty interest in his release from custody, and he presents constitutional claims.

25. **Mr. Amador Barrios should have been provided with a pre-deprivation bond hearing prior to being detained** Because DHS had already been released by immigration in 2022, he should have been provided with a pre-deprivation bond hearing prior to being re-detained. Since *Buenrostro-Mendez* had never been detained by immigration previously, he did not have the same rights to a pre-deprivation bond hearing, and therefore, Mr. Amador Barrios’ case is distinguishable.

26. The Fifth Circuit only reviewed the statutory claims in *Buenrostro*, but it did not review the separate constitutional claims that a non-citizen may have. Because the Fifth Circuit did not rule on the constitutional claims, this Court may review his Petition for Habeas Corpus.

27. **The El Paso Division has previously held that non-citizens have a liberty interest that is “above and apart from the INA.”** *Smirnov v. De-Anda*, 3:25-cv-00669-KC, (W.D. Tex. Dec. 23, 2025).

28. “As explained at length in *Lopez-Arevelo*, 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.” *Lopez-Arevelo v. Ripa*, 2025 WL 2691828, at *10–11 (W.D. Tex. Sept. 22, 2025).

Section 1226 vs. Section 1225

29. In 2022, Respondents released Petitioner under Section 1226 (INA 236). On his Release on his Own Recognizance, Respondents wrote that he was being released under INA 236 (Section 1226). Therefore, Petitioner may not be re-detained under Section 1225 when he was already released under 1226. *Moreno-Madrid v. Acuna*, 3:25-CV-01572, *9-10, (W.D. La. Dec. 12, 2025) (finding Respondents could not claim Petitioner was held under Section 1225 when his release paperwork stated that he was processed under Section 1226).

FACTS

30. Petitioner, Raudel Amador-Barrios, is a citizen of Cuba who is detained at El Paso Processing Center in El Paso, Texas
31. Prior to being detained, Ms. Amador Barrios was living in Florida. He last entered the United States on or about March 6, 2022, and he was detained by DHS upon entry. DHS released him on his own recognizance at the border. For the last three years, he had been living freely in the United States.
32. Any request for bond from the Immigration Judge is futile because the Board has stripped it of jurisdiction. *Yajure-Hurtado*, 29 I&N Dec. 216. The Immigration Judge is not allowed to hear the case. *Id.* Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like

Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). See Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

CLAIMS FOR RELIEF

COUNT I

Violation of Due Process

33. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

34. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

35. Petitioner has a fundamental interest in liberty and being free from official restraint. The government’s re-detention of Petitioner without a pre-deprivation bond hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT II

Violation of the INA and the Regulations

36. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

37. Respondents have violated the INA by trying to claim that Petitioner is detained under Section 1225 when they previously processed him under Section 1226 when they released him in 2022. *Moreno-Madrid v. Acuna*, 3:25-CV-01572, *9-10, (W.D.

La. Dec. 12, 2025) (finding Respondents could not claim Petitioner was held under Section 1225 when his release paperwork stated that he was processed under Section 1226).

38. Because Respondents have erroneously claimed that Petitioner is detained under Section 1225, this Court must order his immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Declare that the actions of Respondents as set forth in Mr. Amador-Barrios' Petition and Motion violate the Fifth Amendment of the United States Constitution, the INA, and 28 U.S.C. § 2241;
- c. Issue a writ of habeas corpus requiring that Respondents release Petitioner immediately because he was re-detained without a pre-deprivation bond hearing; and
- d. Grant any other and further relief that this Court deems just and proper.

DATED this 9th of February 2026.

/s/ Jennifer Scarborough

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Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned Counsel has discussed with Petitioner the events described in this Petition and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

Date: 9 Feb.. 2026

/s/ Jennifer Scarborough
Jennifer Scarborough
Attorney for Petitioner