

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JORGE DARÍO DAQUILEMA ROLDAN,
Petitioner,

CASE NO. 3:26-CV-00384-LS

v.

PAMELA BONDI, in her official capacity
as U.S. Attorney General; KRISTI NOEM,
in her official capacity as Secretary, U.S.
Department of Homeland Security; TODD
M. LYONS, in his official capacity as
Acting Director, U.S. Immigration and
Customs Enforcement; DAVID
EASTERWOOD, in his official capacity as
Field Office Director, Director of
Enforcement and Removal Operations, St.
Paul Field Office, U.S. Immigration and
Customs Enforcement; and the Warden of
El Paso Camp East Montana,

Respondents.

**REPLY IN SUPPORT OF AMENDED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

COMES NOW Petitioner, Jorge Darío Daquilema Roldan, (“Mr. Daquilema Roldan” or “Petitioner”), who files this Reply in Support of his Amended Verified Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Dkt. 15), and would respectfully show the Court as follows:

INTRODUCTION

1. Federal Respondents’ sole basis for imprisoning Petitioner Jorge Darío Daquilema Roldan is that he is allegedly “subject to mandatory detention under § 1225(b)(2)” of the Immigration and Nationality Act (the “INA”). (Dkt. 17) (“Resp.”), at 2. As outlined in his amended petition, Mr. Daquilema Roldan’s detention is unlawful and he is entitled to relief based on the Fifth Amendment.

2. In response to Mr. Daquilema Roldan's amended petition, Respondents treat *Buenrostro-Mendez* as alpha and omega. See *Buenrostro-Mendez v. Bondi*, No. 25-20496, 166 F.4th 494 2026 WL 323330 (5th Cir. Feb. 6, 2026). Indeed, Respondents go so far as to say that *Buenrostro* "requires that the Court deny this habeas petition." Resp. at 1. Yet, *Buenrostro* did not speak to due process and, instead, was decided solely on statutory interpretation—the government has conceded 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*, Cause 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. Daquilema Roldan's constitutional rights fall short.

3. 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. Daquilema Roldan's procedural due process rights were plainly violated by Respondents. The Court should grant the relief sought in the amended petition.

ARGUMENT

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

4. In his petition, Mr. Daquilema Roldan 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. 15, at ¶¶ 45-50). Respondents do not appear to challenge whether Mr. Daquilema Roldan's detention would meet *Mathews*' criteria. Rather, Respondents claim that *Mathews* is entirely inapplicable by recharacterizing Mr. Daquilema Roldan's claim as solely substantive rather than procedural. See Resp. at 12 (arguing *Mathews* has no application), see also Resp. at 15-16 (arguing about the substance of Mr.

Daquilema Roldan's procedural due process claim without *Mathews*).

5. Respondents then claim that Mr. Daquilema Roldan's due process is necessarily confined to the statutory provisions of the Immigration and Nationality Act (the "INA"). *See generally* Resp. at 12-15. According to Respondents, under *Buenrostro*, § 1225(b)(2) of the INA "requires mandatory detention" if a noncitizen—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 13. Mr. Daquilema Roldan indisputably meets both criteria. Rather than articulating a basis for their unsupported position that he does not, Respondents next argue—in reliance on primarily *Dep't of Homeland Sec. v. Thuraissigiam* as well as *Conn. Dep't of Pub. Safety v. Doe*—that Mr. Daquilema Roldan'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 12-15. In other words, Respondents attempt to avoid *Mathews* altogether by claiming that Mr. Daquilema Roldan's procedural due process claim is a disguised substantive due process claim. *See id.* at 12-15. Respondents are wrong.

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

6. "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)). And as courts in this District and others have held: immigration detention "without an individualized assessment of flight risk and dangerousness deprives [a person] 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

7. In accordance with these basic principles, orders from this District have repeatedly rejected, including as recently as late last month, Respondents’ argument—based on an unreasonably expansive reading of *Thuraissigiam*—that petitioners like Mr. Daquilema Roldan are not entitled to any more due process than the purely statutory rights provided under the INA. See Order Granting Petition for Writ of Habeas Corpus, *Mendoza v. Noem*, Case No. 5:26-CV-0728, at 10–15 (W.D. Tex. Feb. 26, 2026) (attached as **Exhibit 1**); *Marceau v. Noem*, No. EP-26-CV-237-KC, 2026 U.S. Dist. LEXIS 29739, at *2–4 (W.D. Tex. Feb. 9, 2026) (“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 v. Noem*, Cause No. EP-25-CV-443-KC, 2025 U.S. Dist. LEXIS 217585, at *6 (“The Court has already rejected such a reading.”); see also *Lopez-Arevelo v. Ripa*, Cause No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, at *19 (W.D. Tex. Sept. 21, 2025) (declining to consider “a proper reading of the INA” when determining whether petitioner’s due process rights were violated).²

¹ See also *Azalyar v. Raycraft*, No. 1:25-CV-916, 2026 WL 30741, at *2 (S.D. Ohio Jan. 2, 2026); *Gonzalez-Albornoz v. Olson*, No. CV-25-208-DLB, 2026 WL 251955, at *2 (E.D. Ky. Jan. 30, 2026); *Rincon v. Hyde*, No. CV 25-12633-BEM, 2025 WL 3122784, at *7 (D. Mass. Nov. 7, 2025); *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *2 (W.D. Tex. Oct. 30, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7 (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 WL 2792588, at *10 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 682 (W.D. Tex. 2025).

² *Martinez v. Noem*, Cause No. EP-25-CV-430-KC, 2025 U.S. Dist. LEXIS 209332, at *7 (W.D. Tex. Oct. 21, 2025) (“The Court has already rejected such a reading.”); *Santiago v. Noem*, Cause No. EP-25-CV-361-KC, 2025 U.S. Dist. LEXIS 195616, at *18–29 (W.D. Tex. Oct. 1, 2025) (similar); *Clemente Ceballos v. Garite*, No. EP-26-CV-00312-DB, 2026 WL 446509, at *2, n. 1

8. Apparently undeterred by this District's holdings, Respondents again attempt to use *Thuraissigiam* as a reason to deprive Mr. Daquilema Roldan of "an individualized assessment of flight risk and dangerousness." *See* Resp. at 15. Respondents' reliance on *Thuraissigiam* is, once again, misplaced for the same two reasons that such reliance has been misplaced in the several cases referenced above.

9. First, the issue before the Court in *Thuraissigiam* concerned expedited removal of noncitizens apprehended near the border. However, Mr. Daquilema Roldan is not subject to expedited removal order and was apprehended in central Minnesota—not at or near the border. Thus, any reliance on *Thuraissigiam* is inappropriate.

10. 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.

11. Here, unlike the noncitizen in *Thuraissigiam* who had just arrived at our nation's borders, Mr. Daquilema Roldan has been living in the United States for three years and has obtained a liberty interest. *Id.* Indeed, Respondent does not dispute that Mr. Daquilema Roldan has a pending asylum application, employment, and a family in the United States, or that Mr.

(W.D. Tex. Feb. 10, 2026) (similar).

Daquilema Roldan has no criminal record. The circumstances of Mr. Daquilema Roldan's detention are therefore easily distinguishable from the noncitizen in *Thuraissigiam*, and *Thuraissigiam* does not invalidate that Mr. Daquilema Roldan has a liberty interest protected by the due process clause.

12. Additionally, *Thuraissigiam* involved the narrow question of whether, with respect to a noncitizen apprehended near the border and placed in expedited removal proceedings, § 1252(e)(2)'s provisions limiting judicial review of a determination made under section § 1225(b)(1) violate the Suspension Clause and the Due Process Clause. As this Court explained in *Santiago*, the Supreme Court in *Thurassigiam* “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. Indeed, a challenge to detention is different than a challenge to deportability. *Vieira v. De Anda-Ybarra*, 806 F. Supp. 3d 690, 699 (W.D. Tex. 2025). “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 challenge involves Mr. Daquilema Roldan'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.

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

13. Respondents' reliance on *Conn. Dep't of Pub. Safety* to foreclose Mr. Daquilema Roldan's rights is also 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. Daquilema Roldan 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. Daquilema Roldan was detained while attending an ICE check-in, then subsequently transported hundreds of miles to El Paso, Texas, and has remained in custody ever since without any process.

14. 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. Daquilema Roldan's imprisonment implicates the most fundamental liberty—freedom from arbitrary detention. *Conn. Dep't of Pub. Safety* is inapplicable.

15. Finally, *Conn. Dep't of Pub. Safety* has never been cited in the context of immigration proceedings or the detention of someone like Mr. Daquilema Roldan. 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. Daquilema Roldan

16. Because Respondents largely do not dispute that the *Mathews* factors would mandate relief for Mr. Daquilema Roldan, "[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. Daquilema Roldan's petition. *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). Mr. Daquilema Roldan 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. Daquilema Roldan is detained without proper process is minimal—especially in comparison to Mr. Daquilema Roldan's substantial liberty interest.

17. Ultimately, even assuming that *Buenrostro* was correctly decided, Mr. Daquilema Roldan'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. Daquilema Roldan has such an interest and the three-pronged *Mathews* test balances in his favor, Mr. Daquilema Roldan's petition should be granted.

CONCLUSION

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

Dated: March 25, 2026

Respectfully submitted,

/s/ Alexa Balderrama

Anna Boyle (admitted pro hac vice)
Minnesota State Bar No. 0397323
boyle.anna@dorsey.com
Alexandra Wood (admitted pro hac vice)
Minnesota State Bar No. 0505169
wood.alexandra@dorsey.com
DORSEY & WHITNEY LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
(612) 340-2600(main)
(612) 340-2868(facsimile)

and

Alexa Balderrama
Texas 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 JORGE
DARIO DAQUILEMA ROLDAN**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 25, 2026, a true and correct copy of the foregoing instrument was served on all counsel of record via the online CM/ECF system.

/s/Alexa Balderrama
Alexa Balderrama