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9 **UNITED STATES DISTRICT COURT**
10 **WESTERN DISTRICT OF TEXAS**

11 Felix RIOS TORRES,

12 Petitioner,

13 v.

14 John DOE, in his/her official capacity as
15 Warden of 8915 Montana Ave, El Paso,
16 Texas, Detention Center; Mary De
17 ANDA-YBARRA, in her official capacity
18 as Enforcement and Removal Operation
19 (ERO) Field Office Director for ICE in El
20 Paso, Texas; Todd LYONS, in his official
21 capacity as Acting Director of ICE; Kristi
22 NOEM, in her official capacity as
23 Secretary of Homeland Security; Pamela
24 BONDI, in her official capacity as U.S.
25 Attorney General,

26 Respondents.

Case No.: 26-425

Agency File No.: 

PETITIONER'S TRAVERSE

I. INTRODUCTION

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3 1. Petitioner is in receipt of Respondents' Response to the Petition, in which
4 Respondents categorically allege that Petitioner is subject to mandatory
5 detention under *Buenrostro-Mendez v. Bondi* No. 25-20496, 2026 WL
6 323330 (5th Cir. Feb. 6, 2026).
7
- 8 2. Respondents also assert that Petitioner is not entitled to any constitutional
9 Due Process protections, neither substantive due process, nor procedural due
10 process (emphasis added).
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- 12 3. Petitioner has no criminal convictions, and no pending criminal charges. He
13 has led a quiet, productive life in the U.S. since 2006. Petitioner has a
14 pending I-360 VAWA and I-485 Applications for Adjustment of Status, and
15 he is *prima facie* eligible for 42B VAWA Cancellation of Removal, and 42B
16 Cancellation of Removal.
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- 18 4. Even if Petitioner has no statutory right to a bond hearing under
19 *Buenrostro-Mendez v. Bondi*, his continued detention without any
20 individualized custody determination violates the Due Process Clause of the
21 Fifth Amendment since the government's reliance on a categorical
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jurisdictional bar has resulted in prolonged civil confinement without adequate procedural safeguards or meaningful judicial review.

II. PROCEDURAL AND FACTUAL HISTORY

5. Petitioner first entered the United States on or around May, 2006, with a work visa. Since then, he has lived and worked continuously in Texas. Petitioner has no criminal history in any country.
6. He is the single father of a 13-year-old United States citizen, [REDACTED] [REDACTED] (hereinafter "[REDACTED]") [REDACTED]'s mother passed away in September, 2024, after suffering cerebral palsy, stroke, and suffering in a coma for months. Petitioner diligently cared for her during this time, while also single-handedly taking care of his young son. Petitioner's only desire is to be reunited with his son to ensure that he is not sent to the foster care system and has a better future.
7. Petitioner received his first Notice to Appear (NTA) and was detained on October 13, 2025, while driving through a checkpoint in Midland, Texas.
8. At that time Petitioner had already started his journey toward regularizing his immigration status and had an I-1360 VAWA Petition and I-485

1 Application for Adjustment of Status pending (priority date March 31,
2 2025.) In addition, Petitioner is eligible to apply for 42B VAWA
3 Cancellation of Removal and 42B Cancellation of Removal.

4 9. Based on Petitioner's *prima facie* eligibility for relief, Hon. Jessica Miles
5 granted Petitioner's motion to dismiss on January 28, 2026.
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7 10. However, instead of releasing Petitioner from detention, the government
8 filed a new NTA on February 15, 2026.
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10 11. Petitioner sought an individualized custody determination before the Hon.
11 Stephen Ruhle on March 10, 2026. The Immigration Judge denied
12 jurisdiction to consider bond or conduct any custody review, expressly
13 concluding that the court lacked authority pursuant to *Buenrostro-Mendez v.*
14 *Bondi* No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).
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16 12. As a result of the categorical denial, Petitioner now faces prolonged and
17 potentially indefinite civil detention without any meaningful opportunity for
18 an individualized determination of whether his continued confinement is
19 necessary or lawful. DHS has not conducted any neutral, individualized
20 assessment of Petitioner's danger to the community, risk of flight, or
21 suitability for less restrictive alternatives to detention.
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**III. EVEN IF THE FIFTH CIRCUIT'S FEBRUARY 6, 2026
DECISION IN *BUENROSTRO-MENDEZ* v. *BONDI* FORECLOSES
PETITIONER'S PURELY STATUTORY CLAIM TO A BOND HEARING
UNDER 8 U.S.C. § 1226(a), IT DOES NOT PRECLUDE HABEAS RELIEF
ON CONSTITUTIONAL AND OTHER GROUNDS**

**A. Even if *Buenrostro-Mendez* forecloses Petitioner's
statutory entitlement theory under § 1226(a), it does
not deprive this Court of habeas jurisdiction or
resolve Petitioner's independent constitutional claims**

13. On February 6, 2026, a panel of the United States Court of Appeals for the Fifth Circuit issued its published opinion in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026). The panel held that noncitizens who are present in the United States without having been admitted or paroled—including those apprehended years after entry—are “applicants for admission” under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under § 1225(b)(2)(A) pending removal proceedings under § 1229a.

14. The panel further held that such individuals are not eligible for discretionary release on bond under § 1226(a) and that immigration judges lack jurisdiction to conduct bond hearings in their cases. The panel endorsed the

1 Board of Immigration Appeals' precedential decision in *Matter of Yajure*
2 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and reversed two district court
3 orders that had granted habeas relief on statutory grounds.

4 15. This Court is bound by the Fifth Circuit's holding on the purely statutory
5 question of whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's
6 detention and whether he has a statutory entitlement to a bond hearing
7 before an immigration judge. Petitioner respectfully acknowledges that,
8 under *Buenrostro-Mendez*, he has no statutory right to such a hearing.
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10 16. However, the Fifth Circuit's decision does not resolve—and expressly did
11 not reach—the independent constitutional and other claims raised in this
12 Petition. The panel in *Buenrostro Mendez* addressed only the statutory
13 interpretation dispute and reversed the district courts solely because they
14 had granted bond hearings as a matter of statutory entitlement under §
15 1226(a). The panel had no occasion to consider due process challenges to
16 prolonged or indefinite mandatory detention without any individualized
17 hearing, nor did it address claims under the Administrative Procedure Act,
18 the equal protection component of the Fifth Amendment, the Suspension
19 Clause, or the *Accardi* doctrine.
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17. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), similarly held that there is no statutory right to periodic bond hearings under §§ 1225(b), 1226(a), or 1226(c), but it explicitly remanded for the lower courts to consider constitutional arguments in the first instance. *Id.* at 302–03. The Fifth Circuit's statutory holding in *Buenrostro-Mendez* leaves those constitutional questions open, just as *Jennings* did.

B. Habeas jurisdiction remains available to test the legality of detention and the constitutionality of detention procedures; § 1226(e) does not bar review of legal and constitutional claims

18. Nothing in *Buenrostro-Mendez* strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law. *Jennings* itself distinguishes unreviewable discretionary custody judgments from reviewable questions of law and constitutional claims. Likewise, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), both proceeded through § 2241 habeas and

underscore that civil immigration detention must remain tethered to lawful purposes and must satisfy due process.

19. Petitioner does not ask this Court to second-guess a discretionary bond determination. He challenges DHS's asserted authority to hold him in prolonged civil detention without any meaningful individualized custody determination, and he challenges the lawfulness of the government's detention process as applied to him.

**IV. AS-APPLIED DUE PROCESS VIOLATION FROM
PROLONGED OR INDEFINITE DETENTION WITHOUT
INDIVIDUALIZED HEARING**

20. Even accepting the Fifth Circuit's interpretation that § 1225(b)(2)(A) mandates detention and provides no statutory bond hearing, Petitioner's ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment as applied to him.

21. Civil immigration detention is permissible only to the extent it serves the statutory purposes of ensuring appearance at proceedings and protecting the community from danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003). When detention becomes

1 prolonged or indefinite and is no longer tied to those purposes, it becomes
2 punitive and unconstitutional. *Id.*

3 22. Petitioner's detention is more than five months old, since October 13, 2025.

4 His pending I-360 VAWA self-petition with the I-485 Application for
5 Adjustment of Status application face extensive backlogs and require
6 extended proceedings—often lasting three years or more. Absent any
7 mechanism for individualized review, Petitioner faces a substantial risk of
8 indefinite detention under penal conditions despite having no criminal
9 history, no disciplinary infractions, demonstrated compliance, and no
10 individualized finding of danger or flight risk.
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12 23. Numerous district courts, including within the Fifth Circuit, have held
13 post-*Jennings* that due process requires an individualized bond hearing,
14 with the government bearing the burden of proof by clear and convincing
15 evidence, when mandatory detention under §§ 1225(b) or 1226(c) becomes
16 prolonged.
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18 24. While the Fifth Circuit has not adopted a bright line rule, district courts in
19 this Circuit and others commonly find six months presumptively
20 unreasonable absent individualized justification. *See, e.g.,* practice
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1 advisories and district court orders cited in post-*Jennings* litigation,
2 collecting cases requiring hearings after 6– 12 months under analogous
3 mandatory detention provisions.

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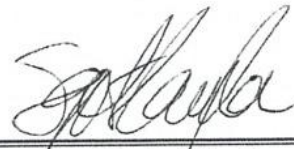
11 26. The constitutional concerns are heightened here because the government's
12 new interpretation—upheld in *Buenrostro-Mendez*—extends mandatory
13 detention without bond or hearing to noncitizens who have lived openly in
14 the United States for significant periods, here, over two years, accrued
15 equities, and were not detained at the time of initial processing. Traditional
16 “arriving alien” detention under § 1225(b) historically applied to those
17 apprehended at or near the border or port of entry, where detention was
18 typically brief pending expedited processing. Extending it to individuals in
19 full § 1229a proceedings with meritorious relief claims raises far graver
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1 liberty interests than the brief detention upheld in Demore or contemplated
2 for true arriving aliens.

3 27. Petitioner is the only parent to a 13-year-old U.S. citizen son. He has no
4 criminal record, productive work history, and strong avenues for affirmative
5 and defensive relief. Continued categorical detention without any
6 hearing—where the government never has to justify his confinement by
7 evidence—serves no legitimate purpose and is punitive in effect. *See*
8 *Matthews v. Eldridge*, 42 U.S. 319, 335 (1976).
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13 Accordingly, the Court should find that continued indefinite detention of
14 Petitioner is unlawful and order Petitioner's immediate release from custody.

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17 Dated: March 12, 2026

Signature: 

By: Sandra Gotlaufa-Orozco,
Attorney for Petitioner