

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

CRISTIAN BIBLIAN LOVERA,	§	
Petitioner,	§	
	§	Case No. 3:26-cv-445
v.	§	
MARY DE ANDA-YBARRA, Field	§	
Office Director,	§	
El Paso Field Office, Immigration and	§	
Customs Enforcement, in his official	§	
capacity;	§	
KRISTI NOEM, Secretary, U.S. Department	§	
Homeland Security, in her official	§	
capacity;	§	
PAMELA BONDI, U.S. Attorney General,	§	
her official capacity;	§	
TODD M. LYONS, Acting Director of U.S.	§	
Immigration and Customs Enforcement, in	§	
his official capacity;	§	
WARDEN, El Paso Special Processing	§	
Center, in his official capacity,	§	
Respondents.	§	
	§	

REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Cristian Biblian Lovera (“Petitioner”) submits this Reply in Support of his Verified Petition for Writ of Habeas Corpus. [ECF No. 1].

I. Respondents Fail to Address the Individualized Claims Identified in the Court’s Show Cause Order

The Court ordered Respondents to show cause why the Petition should not be granted after Respondents specifically requested additional time to confer with their client agencies regarding Petitioner’s “specific due process claims,” including his fundamental right to parent and reunify with his children. [ECF No. 7 at p. 1].

Respondents' brief does not meaningfully address those claims. Instead, Respondents largely recycle generalized arguments regarding mandatory detention under 8 U.S.C. § 1225(b). Those arguments do not address the individualized circumstances presented here.

Petitioner's claims arise from a unique factual context. Petitioner has been living in the United States for four years after being paroled into the country, working with authorization under Temporary Protected Status, and actively participating in the government's reunification process for his two minor children. [See ECF No. 1]. Petitioner complied with repeated vetting by federal officials and appeared voluntarily at a scheduled appointment arranged by immigration officers to discuss reunification with his children.

Respondents' brief does not dispute these core facts. Nor does it address Petitioner's reliance on his prior immigration status, his participation in the reunification process, or the significant liberty interests implicated by the continued detention of both Petitioner and his children.

Instead, Respondents rely almost exclusively on the Fifth Circuit's recent decision in *Buenrostro v. Bondi* to argue that detention under § 1225(b)(2) is lawful. But *Buenrostro* addressed only the statutory interpretation of § 1225(b)(2). [See ECF No. 1 at pp. 18-20 (distinguishing *Buenrostro*)]. It did not resolve the constitutional question presented here—whether the government may detain a parent who has lived in the United States for years, previously received lawful authorization to work, and appeared voluntarily for a government-scheduled reunification interview, without any individualized determination that detention is necessary. Accordingly, Respondents' reliance on *Buenrostro* does not resolve this case.

II. Respondents Mischaracterize Petitioner's Position in Removal Proceedings

Respondents assert that Petitioner “does not contest that he is removable as charged.” [ECF No. 8 at p. 10]. That assertion is incorrect.

Petitioner is actively contesting his removability through his pending application for asylum, withholding of removal, and protection under the Convention Against Torture. As Respondents' note, a hearing on such application is set for April 15, 2026. [*Id.* at p. 4]. The filing of Form I-589 necessarily places Petitioner's removability before the immigration court for adjudication.

Whether Petitioner is removable is therefore a matter currently pending before the immigration court and cannot be resolved by this Court in a habeas proceeding. Respondents' suggestion that Petitioner "does not contest removability" improperly attempts to characterize the merits of the underlying removal proceedings and should be disregarded.

III. The Government's Own Record Confirms Petitioner Was Arrested Pursuant to a Policy Targeting Parents Seeking Reunification

Respondents' narrative regarding Petitioner's arrest is contradicted by the government's own documentary record. The Respondents imply without explicitly saying it that Petitioner's detention was based on his refusal to cooperate into an investigation regarding how his children arrived in this country and his invocation of his Fifth and Sixth Amendment rights. [ECF No. 8-1 at p. 2, ¶ 12].

The Petitioner's Form I-213 prepared by immigration officials states that Petitioner was interviewed and arrested as part of "**Operation Guardian Trace.**" That record explains the policy as follows:

As part of Operation Guardian Trace, Special Agents are required to interview and investigate sponsors and/or guardians/parents. During the process, if the sponsor/guardian/parent is determined to be illegally present in the United States, HSI will arrest and initiate administrative removal proceedings for possible reunification.

See Exhibit 1, attached hereto. **FIRST, Petitioner is unaware of any publicly disclosed record of an "Operation Guardian Trace."** A Google Search for such term limited by quotation marks

returned **zero results**. That is extremely concerning, and the ERO Officer's failure to address that issue in his declaration demands close scrutiny.

SECOND, the government's own document therefore confirms that Petitioner's arrest was not based on individualized misconduct but rather resulted from the implementation of a policy—**heretofore undisclosed**—targeting parents seeking reunification with children in federal custody. The Due Process Clause does not permit executive detention that is arbitrary or untethered to individualized circumstances. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The same record further confirms that Petitioner had previously been paroled into the United States, has no criminal history, and was arrested during a scheduled interview at the ICE office. Petitioner appeared voluntarily at the government-scheduled interview as part of the reunification process, only to be arrested during that meeting pursuant to a policy targeting parents seeking custody of their children.

Respondents' brief does not dispute these facts. Nor does it explain why the arrest of a parent participating in a government-directed reunification process—after years of lawful presence under government supervision—comports with due process.

IV. Respondents Do Not Meaningfully Address Petitioner's Due Process Claims

Respondents argue that Petitioner's claims fail because detention of "applicants for admission" under § 1225(b) is generally lawful. [ECF No. 8 at pp. 5-7]. That argument misses the point.

Petitioner does not challenge the existence of the statute. Rather, he challenges the application of mandatory detention in these circumstances without any individualized process, particularly where the government itself previously authorized his presence in the United States and induced him to appear at an interview relating to the reunification of his children.

The Due Process Clause protects the liberty interest in freedom from physical restraint. Petitioner's detention also directly interferes with the well-established constitutional interest of parents in the care and custody of their children. The Supreme Court has repeatedly recognized that the relationship between parent and child is a fundamental liberty interest protected by the Due Process Clause. *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Here, the government's actions have the practical effect of preventing reunification between Petitioner and his children, who remain in federal custody after months of government-directed vetting of Petitioner as a potential sponsor. **In fact, Respondents' brief does not even address whether Petitioner was already approved as a sponsor for his children before he was lured into an arrest by HSI under false pretenses.** Respondents' brief does not address this constitutional interest or explain why the complete deprivation of Petitioner's ability to reunify with his children without any individualized hearing satisfies due process. Instead, Respondents simply assert that Congress mandated detention under § 1225(b). But the existence of a statutory detention provision does not eliminate the requirement that executive detention comport with constitutional due process.

V. The ERO Declaration Does Not Establish a Basis for Continued Detention

Respondents rely on a declaration from an Enforcement and Removal Operations officer. [ECF No. 8-1]. That declaration, however, is conclusory, relies on hearsay, and does not provide the factual basis necessary to justify Petitioner's detention.

The declaration does not address the key facts raised in the Petition, including Petitioner's prior grant of Temporary Protected Status, his work authorization and lawful employment, the government's recommended approval of his reunification process, or the circumstances under which he was summoned to the ICE office and arrested.

Instead, the declaration merely recites general information about Petitioner's immigration history. It does not rebut the central due process concerns raised by the Petition.

VI. Petitioner's Exercise of Constitutional Rights Cannot Serve as a Basis for Detention

Respondents also imply that Petitioner's detention was triggered by his refusal to cooperate in questioning during the interview with immigration agents. Even if such an implication were supported by admissible evidence, it would not justify detention.

The Fifth Amendment protects individuals from being compelled to provide potentially incriminating statements. A person may not be penalized for invoking that constitutional privilege. *Spevack v. Klein*, 385 U.S. 511, 515 (1967) (prohibiting the government from imposing *any* sanction which makes assertion of the Fifth Amendment privilege "costly") (internal quotation omitted). Likewise, the right to consult counsel during government questioning is a fundamental protection.

To the extent Respondents suggest that Petitioner's detention followed his refusal to answer questions during an interrogation, such reasoning would impermissibly penalize the exercise of constitutional rights.

CONCLUSION

Respondents have not shown cause why the writ should not be issued. Their response largely relies on generalized arguments about § 1225 detention and does not address the individualized circumstances presented here, including Petitioner's years of residence in the United States, his prior government authorization to work, his participation in the reunification process for his children, and the government's own record confirming that his arrest occurred pursuant to a policy targeting parents seeking reunification. The Due Process Clause does not permit the government to deprive an individual of liberty under such circumstances without any meaningful individualized process.

For these reasons, Petitioner respectfully requests that the Court:

- a. Issue a writ of habeas corpus requiring that, within one day, Respondents release Petitioner;
- b. Issue an Order prohibiting Respondents from re-detaining Petitioner without a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;
- c. Issue an Order prohibiting Respondents from imposing ankle monitoring, SmartLink reporting, or any other restrictive conditions on Petitioner in the future without prior authorization from an Immigration Judge or other judicial determination; and
- d. Grant any other and further relief that this Court deems just and proper.

Dated: March 5, 2026

Respectfully submitted,

/s/ Elizabeth Sanchez Kennedy

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CERTIFICATE OF SERVICE

I certify that Petitioner's Response to Federal Respondents' Opposed Motion for Extension of Time was served via ECF on March 6, 2026.

/s/ Iain L. C. Kennedy

Iain L. C. Kennedy