

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

RULAN SEMENOV,

Petitioner,

v.

PAMELA BONDI, ET AL.

Respondents.

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CIVIL ACTION NO. 3:26-CV-452-LS

REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Rulan Semenov (“Petitioner” or “Mr. Semenov”) files this Reply in Support of his Verified Petition for Writ of Habeas Corpus [Dkt. 1], and in support thereof would show:

INTRODUCTION

Respondents ignore the wealth of decisions granting habeas relief for detainees under the Due Process Clause of the U.S. Constitution from courts across the country, including the Western District of Texas, and rejecting the very arguments made in this case by Respondents. As described below, many of these courts have ordered release. Mr. Semenov respectfully requests the same remedy or, alternatively, that this Court order a bond hearing that comports with due process.

LEGAL DISCUSSION

1. The Fifth Circuit’s Buenrostro Decision

The *Buenrostro* ruling, issued on February 6, 2026, overrules a substantial body of judicial authority by holding that § 1225(b)’s mandatory detention provisions may be applied to all applicants for admission to the U.S. who entered without inspection, whether they were apprehended at the border or after a period of living in the country. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th Cir. 2026). Importantly, Buenrostro did not address

any issues other than this narrow question of statutory construction.¹ *Id.* In particular, the opinion does not examine any due process challenge to the mandatory detention policy, nor did it examine challenges under the APA. *Id.* Mr. Semenov seeks relief under both grounds.²

2. The Due Process Clause Entitles Mr. Semenov to Habeas Relief

Multiple federal courts in the Fifth Circuit have granted habeas relief on procedural due process grounds notwithstanding the statutory limitations addressed in *Buenrostro*. *See, e.g., Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7 (W.D. Tex. Oct. 21, 2025); *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *3–4 (W.D. Tex. Oct. 30, 2025); *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at *7 (S.D. Tex. Feb. 3, 2026); *Berting Marceau v. Noem*, No. EP-26-CV-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026); *Gomez Hernandez v. Ice*, No. EP-26-cv-67-KC, 2026 WL 503958, at *3 (W.D. Tex. Feb. 23, 2026). These courts join a growing body of jurisprudence across the country holding that, in the case of a noncitizen living

¹ Indeed, the Fifth Circuit opinion could not have ranged beyond this narrow issue of statutory construction, because that was the sole ground on which the district courts decided the cases at issue below. *See Buenrostro-Mendez v. Bondi*, 4:25-cv-03726 [Dkt. 18] at 5 (S.D. TX, Oct. 7, 2025) (“Turning to the merits, the court concludes that § 1226, not § 1225, applies to Buenrostro’s detention.” (internal citations omitted)); *Covarrubias v. Vegara*, No. 5:25-CV-112 [Dkt. 30] at 4 (S.D. TX, Oct. 8, 2025) (“whether he falls under Section 1226(a) or 1225(b)(2) is a matter of statutory interpretation.”) The *Buenrostro* majority opinion stopped well short of dismissing the habeas claims, instead remanding the case “for proceedings consistent with this opinion.” 2026 WL 323330 at *10.

² Moreover, the *Buenrostro-Mendez* ruling almost certainly will generate a circuit split on this issue and reach the Supreme Court, given the broad consensus among courts across multiple circuits that § 1225(b) cannot be read so broadly. Indeed, in December 2025, the Seventh Circuit, in ruling on the government’s emergency motion to stay a district court’s decision to order release of detainees, wrote that “given the factual record before us, we conclude that Defendants are not likely to succeed on the merits of their argument that those individuals, whom ICE arrested in Chicago without a warrant, are subject to mandatory detention under § 1225(b)(2)(A).” *Castanon-Nava v. U.S. Dep’t Homeland Security*, 161 F.4th 1048, 1601 (7th Cir. 2025). Accordingly, Mr. Semenov does not withdraw his claims for relief rooted in challenges to the application of § 1225(b) in this case.

freely in the U.S., “Respondents may not revoke that liberty without an individualized determination of the need to do so.” *Berting Marceau*, 2026 WL 368953, at *1.³

a. The Due Process Analysis & the *Mathews v. Eldridge* Factors

For petitioners who, like Mr. Semenov, have lived in the U.S for an extended period of time, mandatory detention is unconstitutional as applied to them, because “non-punitive detention in the immigration context violates the Due Process Clause,’ absent ‘adequate procedural protections’ or a ‘special justification’ outweighing a petitioner’s liberty interest.” *Gonzalez-Albornoz*, 2026 WL 251955, at *3 (citing *Azalyar*, 2026 WL 30741, at *3 (quoting *Padilla v. United States Immigr. & Customs Enf’t*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2003) and *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001))).

The familiar three factor test set out in *Mathews v. Eldridge* applies to determine whether Respondents’ new mandatory detention policy is unconstitutional as applied to Mr. Semenov. *Hernandez-Fernandez*, 2025 WL 2976923 at *7-8 (citing *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976); *Martinez v. Noem*, No. 5:25-CV-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025)). The *Mathews* factors examine: (1) “the private interest that will be affected by the official action”; (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.” *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

³ 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*, 2025 WL 3038262, at *2; *Hernandez-Fernandez*, 2025 WL 2976923, at *7; *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).

As to the first factor, “[t]he interest in being free from physical detention’ is ‘the most elemental of liberty interests.’” *Hernandez-Fernandez* 2025 WL2976923, at *8 (quoting *Martinez v. Sec. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025)). The court found that the petitioner, who, like Mr. Semenov, had been living in the interior of the U.S. for an extended period, had a protected liberty interest in remaining free while his case continued. *Id.* (citing *Lopez-Arevelo v. Ripa*, 801 F.Supp.3d 668, 677–78 (W.D. Tex. 2025); *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *10 (E.D. Cal. Sept. 5, 2025)).

On the second *Mathews* factor, the immigration court’s current policy of mandatory detention without bond under § 1225 creates a “high risk that [Petitioner] has been and will continue to be erroneously deprived of his liberty.” *Id.* at *9 (citing *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025)). Because “individualized custody determinations ... consider[ing] flight risk and dangerousness” are a safeguard that is typically available and that would “greatly reduce the risk of an erroneous deprivation of his liberty,” the court found the second *Mathews* factor favored the petitioner. *Id.* at *9 (citing *Velesaca v. Decker*, 458 F. Supp. 3d 224, 242 (S.D.N.Y. 2020)).

Finally, on the third factor, were the immigration court to hold a full and fair bond hearing, these issues could be fully vetted. Indeed, granting a bond hearing to Mr. Semenov “cannot be terribly burdensome, given the BIA concedes in *Yajure Hurtado* ‘[w]e acknowledge that for years Immigration Judges have conducted bond hearings for aliens who entered the United States without inspection.’” *Id.* at *10 (quoting *In re: Yajure Hurtado*, 29 I&N Dec. 216, 226 (BIA 2025)).

Mr. Semenov is entitled to habeas relief for the same reasons articulated in *Hernandez-Fernandez* and similar cases. As set forth in his Petition, Mr. Semenov has had an asylum application pending since November 2023. Whether he is successful in any efforts to pursue legal

status, he has a cognizable liberty interest in remaining free while his case is pending, absent some showing that he is a flight risk or a danger to the community. *Id.* at *8. The government's policy of blanket detention without bond creates a high risk that he is being deprived of this right in error; an individualized bond hearing would greatly reduce this risk. *Id.* at *9. Finally, the government's interest in ensuring that Petitioner appears for future proceedings and poses no danger to the community in the meantime can be satisfied by providing an individualized bond hearing to determine whether detention is appropriate. *Id.* at *10. But, Mr. Semenov's continued detention without bond under a blanket mandatory detention policy is therefore a violation of his due process rights.

b. This Court Should Reject Respondents' Efforts to Deprive Mr. Semenov of Due Process Protections

Respondents cite two U.S. Supreme Court decisions in support of their attempt to limit Due Process – *Connecticut Dep't of Pub. Safety v. Doe*, 538 U.S. 1 (2003) and *Demore v. Kim*, 538 U.S. 510 (2003). This argument has already been rejected by other courts in this District. *See Gomez Hernandez*, 2026 WL 503958, at *2; *Villegas Angel v. Noem*, 1:26-CV-00384-DAE, 2026 WL 594368, at *3 (W.D. Tex. Mar. 3, 2026); *Guzman Sanchez v. Bondi*, 1:26-CV-00379-DAE, 2026 WL 594365, at *3 (W.D. Tex. Feb. 27, 2026). As one such court pointed out, "*Doe* arose in an entirely different context—a challenge to a sex offender registration statute—and did not address an immigration detainee's challenge to their detention without a bond hearing." *Gomez Hernandez*, 2026 WL 503958, at *2. That same court held that *Demore* did not foreclose procedural due process claims. Specifically, the court noted:

First, *Demore* addressed a challenge to mandatory detention under 8 U.S.C. § 1226(c), which only applies to a specific class of aliens convicted of serious crimes. *See id.* at 517–18. The Government does not purport to detain Gomez Hernandez under § 1226(c), but instead § 1225 (b). *See Resp. 5*. Second, and more importantly, *Demore* was a deeply fractured plurality opinion, in which only one Justice joined the opinion in full. Critically,

a majority of the Court concluded that at least some individualized preliminary proceeding was required by the Due Process Clause in order to detain an alien pending removal proceedings, even in the context of aliens who had been convicted of serious crimes. *See id.* at 531–32 (Kennedy, J., concurring); *id.* at 551–52 (Souter, J., concurring in part and dissenting in part); *id.* at 578–79 (Breyer, J., concurring in part and dissenting in part). Thus, Gomez Hernandez's due process claim challenging his detention without a bond hearing is not foreclosed by *Demore*.

Id. For the same reasons, neither *Doe* nor *Demore* forecloses Mr. Semenov's due process claim challenging his detention.⁴

Respondents also attempt to limit the reach of the Due Process Clause by citing *Dep't of Homeland Sec. v. Thuraissigiam*, 91 U.S. 103, 140 (2020). Contrary to their argument, "*Thuraissigiam* does not foreclose [Petitioner's] due process claims." *Casas-Mondragon v. Bondi*, 1:26-cv-231 at 3 (W.D. Tex. February 23, 2026) (quoting *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 684 (W.D. Tex. 2025)). First, Mr. Semenov is "merely seek[ing] a chance to apply for release . . . [and][n]othing in *Thuraissigiam* suggests [she] lacks such a due process right." *Id.* (quoting *Hernandez-Fernandez*, 2025 WL 2976923, at *8). Unlike the Petitioner in *Thuraissigiam* who was "stopped by Border Patrol 'within twenty-five yards of the border,' immediately detained, and never released," Mr. Semenov has lived in the United States for years, and has an asylum case pending since November 2023. *See Verified Petition* at ¶ 16 [Dkt. 1]. "For constitutional purposes, Petitioner's time living in the United States differentiates [her] from the petitioner in *Thuraissigiam* because the 'Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.'" *Id.* (quoting *Zadvydas*, 533 U.S. at 693). Accordingly, as set forth above, Mr. Semenov is entitled to

⁴ Respondents also cite an unpublished Fifth Circuit opinion in support of their claim that Due Process provides no protection. *Wekesa v. U.S. Att'y*, No. 22-10260, 2022 WL 17175818 (5th Cir. Nov. 22, 2022). This argument has also been rejected. *See Guzman Sanchez*, 2026 WL 594365, at *3 ("the Court does not find *Wekesa's* analysis compelling and declines to apply it here.")

habeas relief under the Due Process clause of the Constitution.

c. Release is the Appropriate Remedy for Mr. Semenov

Many courts in the Fifth Circuit have granted immediate release on procedural due process grounds. *Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Hernandez-Fernandez*, 2025 WL 2976923; *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*, 2025 WL 3038262; *De Leon Hernandez v. Bondi*, 2025 WL 3217037 (W.D. La. Nov. 18, 2025); *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at *7 (S.D. Tex. Feb. 3, 2026) (“The Court is now persuaded that a post-deprivation bond hearing cannot cure the core violation of Mr. Cruz Reyes’s due process rights that occurred when he was unlawfully detained under a mandatory detention provision without any process for such determination.”).⁵ Mr. Semenov requests that this Court order his release,⁶ without the requirement that he be subjected to a bond hearing that will fail to provide him with meaningful process. *See Avilez Aguinaga v. Warden, Joe Corley Processing Ctr.*, No. CV 4:26-0177, 2026 WL 266150, at *1-2 (S.D. Tex. Feb. 2, 2026).

When even provided, the bond hearings currently conducted by the government do not involve “individualized custody determinations considering flight risk and dangerousness” which “give [a noncitizen] an opportunity to be heard and to receive a meaningful assessment of whether

⁵ Other courts across the country have also ordered immediate release on Due Process grounds. *See Larrazabal-Gonzalez v. Mason*, No. 2:26-CV-00049, 2026 WL 221706, at *5 (S.D.W. Va. Jan. 28, 2026) (a “detention-first and hearing-sometime-later practice finds no support in the Constitution.”); *Nava*, 2026 WL 126152, at *3 (due process “necessitated a bond hearing prior to [Petitioner’s] detention.... Because that hearing did not occur, he should not be in custody now.”); *Quijada Cordoba v. Knight*, No. 1:25-CV-00605-BLW, 2025 WL 3228945, at *9 (D. Idaho Nov. 19, 2025) (collecting cases of “courts across the country [that] have ordered the immediate release of detainees in similar situations” and ordering the release of a petitioner who challenged his detention without a bond hearing); *Yao v. Almodovar*, No. 25-CV-9982, 2025 WL 3653433, at *12 (S.D.N.Y. Dec. 17, 2025) (same); *Briceno Solano v. Mason*, No. 2:26-CV-00045, 2026 WL 311624, at *20 (S.D.W. Va. Feb. 4, 2026) (same).

⁶ Petitioner also requests that this Court order that if Respondents redetain him, they must file a notice of redetention with this Court within one day after such redetention and must provide him with a bond hearing that comports with due process within ten days of his redetention. *See Osorio Hernandez v. Anda-Ybarra*, No. 25-CV-00580 [Dkt. 7] at 8-9 (W.D. Tex. December 29, 2025) (Guaderrama, D.).

he is dangerous or likely to abscond.” See *Rojas*, 2025 WL 3038262, at *3–4. Rather, the bond hearings are typically scheduled with little or no advance notice to the petitioner and, although the burden is on the government to prove danger or flight risk, the immigration court often does not provide an explanation or reasoning for its decision, making it impossible to determine on what basis the decision was made. See *Trigueros v. Guadian*, No. 1:26-cv-00205-AJT-WBP, Order Granting Motion to Show Cause at 2, 6 (E.D. Va. Feb. 18, 2026) (ordering release or second bond hearing where respondents did not provide immigration court’s reasoning and U.S. district judge listened to bond hearing audio recording and concluded that “the considerations upon which it was determined that [p]etitioner constitutes a flight risk were so lacking in probative value as to that issue that their use in determining flight risk failed to provide the [p]etitioner with constitutionally sufficient due process.”).⁷

3. §1225(b)(2)’s Application to Petitioner Has Been Vacated Pursuant to the APA

Respondents assert that Petitioner’s detention is authorized by Section 1225(b)(2), claiming broadly that *Buenrostro v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), “requires that the Court deny this habeas petition.” Resp. [Dkt. 3] at 1, 4. It is true that *Buenrostro* held that Section 1225(b) is textually applicable to all “applicants for admission,” whether or not they reside in the interior of the United States at the time they are apprehended. *Buenrostro*, No. 25-20496, 2026 WL 323330, at *1. But *Buenrostro* did not consider and does not offer guidance on how this textual interpretation may be limited by vacatur under the APA.

On December 18, 2025, the Central District of California entered an order vacating the

⁷ In the alternative or at a minimum, this Court should order a bond hearing at which Respondents bear the burden of establishing Petitioner is a flight risk or a danger to the community by clear and convincing evidence. *Hernandez-Fernandez*, 2025 WL 2976923, at *8. And, should the Court order a bond hearing, Mr. Semenov reserves the right to seek review in this Court of whether the Respondents provided him with a constitutionally compliant bond hearing, and would ask this Court to expressly retain jurisdiction to conduct that assessment should it be necessary. *Id.* at 3 (“As an initial matter, the Court concludes that it retains jurisdiction to review whether Respondents provided Petitioner with a constitutionally compliant bond hearing.”).

Lyons Memo (the DHS policy statement on expanded mandatory detention) as a violation of the APA, *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Dec. 18, 2025). On February 18, 2026, the *Bautista* court entered a further order vacating *In re Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the BIA decision giving effect to the Lyons Memo. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *10 (C.D. Cal. Feb. 18, 2026).⁸ In the *Bautista* proceedings, Respondents (principally the same Respondents in the instant case) acknowledged that the precedential value of *Yajure Hurtado* is their only basis for denying bond hearings to noncitizens apprehended while living in the U.S. *Bautista*, 2026 WL 468284 at *6, 10. Other courts outside California have found the legal basis for mandatory detention of noncitizens residing in the U.S. “is now void.” *Pacheco-Sanchez v. Holston, et al.*, No. 2:26-CV-00330-RFB-NJK, 2026 WL 483453, at *2 (D. Nev. Feb. 20, 2026); *Samayoa v. Smith, et al.*, No. 5:25-CV-190-BJB, 2026 WL 483243, at *10 (W.D. Ky. Feb. 20, 2026).⁹

Respondents argue that an APA claim is not cognizable in habeas proceedings. Resp. at 22. However, this district has previously “assum[ed] without finding that APA claims are cognizable under habeas,” *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *5 (W.D. Tex. Oct. 2, 2025). In any event, this court need not reach the issue of whether an APA claim is cognizable in a petition for habeas corpus, because the APA vacatur has already happened.¹⁰

⁸ Petitioner is part of the nationwide class certified in *Bautista*. However, the Court need not reach the issue of whether the nationwide declaratory relief provided by the *Bautista* court is applicable to Petitioner, because the *Bautista* court has now vacated both the Lyons Memo and *In Re Yajure Hurtado* as violations of the Administrative Procedure Act.

⁹ While this vacatur may be appealed, “the *Bautista* final judgment remains preclusive while it’s pending before the Ninth Circuit.” *Samayoa*, 2026 WL 483243, at *6.

¹⁰ The APA equips reviewing courts to “hold unlawful and set aside agency action” found to be “arbitrary [and] capricious” or “in excess of statutory jurisdiction.” 5 U.S.C. § 706(2). “The Federal Government and the federal courts have long understood § 706(2) to authorize vacatur of unlawful agency rules.” *Corner Post, Inc. v. Bd. of Governors of Fed. Rsr. Sys.*, 603 U.S. 799, 826 (2024) (Kavanaugh, J., concurring). This “unique form of judicial review . . . differs from judicial review of statutes” by enabling courts to “formally nullify” unlawful federal agency actions rather than simply entering “non-enforcement remedies.” Jonathan Mitchell, *The Writ-of-Erasure Fallacy*, 104 Va. L. Rev. 933, 950 (2018). Under the APA, “[r]eviewing courts may formally vacate an agency’s rule or order, rather than merely

“Consequently, the immigration court's legal basis for not providing Petitioner with the relief of an individualized bond hearing established in *Maldonado Bautista* is now void.” *Pacheco-Sanchez*, 2026 WL 483453, at *2; *Samayoa*, 2026 WL 483243, at *10.¹¹

“As the Ninth Circuit has recently indicated, vacatur under the APA sets aside unlawful actions and ‘restore[s] the status quo.’” *Id.* (citing *Nat’l TPS All. v. Noem*, No. 25-5724, 2026 WL 226573 at *17 (9th Cir. Jan. 28, 2026)). The status quo in the absence of the Lyons Memo and *Yajure Hurtado* is that “[f]or nearly three decades, Respondents consistently considered noncitizens present in the United States without having been admitted or paroled as detained under 8 U.S.C. § 1226(a), thus entitling them to bond hearings.” *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, at *4 (W.D. Tex. Nov. 26, 2025). In the absence of the Lyons Memo and *Yajure Hurtado*, these prior precedents control and prevent the application of mandatory detention to Petitioner. *Pacheco-Sanchez*, 2026 WL 483453, *2; *Samayoa*, 2026 WL 483243, *10. Accordingly, “Petitioner's detention is unlawful, and habeas relief is proper. Petitioner must be released from detention.” *Santos*, 2026 WL 300786, at *4.

CONCLUSION

In sum, Petitioner’s continued detention violates Mr. Semenov’s due process rights. Accordingly, Mr. Semenov prays that this Court issue a writ of habeas corpus requiring Respondents to release him under the conditions set forth in his Petition.

enjoin officials from enforcing it.” *Id.* at 1014. “Because Congress provided vacatur as a standard remedy for APA violations, courts typically invalidate—without qualification—unlawful administrative rules as a matter of course.” *Franciscan All., Inc. v. Azar*, 414 F. Supp. 3d 928, 934 (N.D. Tex. 2019); *see also Data Mktg. P’ship v. U.S. Dep’t of Labor*, 45 F.4th 846, 859 (5th Cir. 2022).

¹¹ The Fifth Circuit’s adoption of Respondents’ statutory interpretation does not preclude the *Bautista* court’s vacatur of the Lyons Memo and *Yajure Hurtado*. *See Brackeen v. Haaland*, 994 F.3d 249, 355 (5th Cir. 2021), *aff’d in relevant part, vacated in part, rev’d in part*, 599 U.S. 255, 143 S. Ct. 1609, 216 L. Ed. 2d 254 (2023) (“an agency can violate the APA by switching to a statutory interpretation that is wholly reasonable . . . if it does so without providing an adequate explanation for the change.”) *See also Samayoa*, 2026 WL 483243 at *7 (The Government offers no reason why preclusion would apply only to questions of contract or tort, and not to statutory interpretation.)

Date: March 10, 2026

Respectfully Submitted,

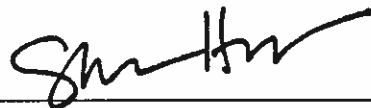


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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2026, I caused a true and correct copy of the foregoing Reply in Support of Verified Petition for Habeas Corpus to be served on Respondents counsel via electronic mail and through the Court's systems.

Date: March 10, 2026

/s/ 

Shannon H. Hutcheson
Attorney for Petitioner