

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

Edgar Reynaldo Hernandez Vite
(Year of Birth [REDACTED] – A# [REDACTED])
PETITIONER

V.

Warden, Rio Grande Detention Center;
Field Office Director,
U.S. Immigration and Customs Enforcement,
San Antonio Field Office;
U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT;
KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security; and
PAM BONDI, Attorney General of the
United States,

CIVIL ACTION NO. 5:26-cv-325

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Petitioner EDGAR REYNALDO HERNANDEZ VITE (“Petitioner”), by and through undersigned counsel, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 and for declaratory and injunctive relief, and alleges as follows:

I. INTRODUCTION

1. This case challenges the ongoing civil immigration detention of Petitioner at the Rio Grande Detention Center in Laredo, Texas, under the government’s post-July 8, 2025 “applicants for admission” policy, which it claims subjects long-term interior residents who entered without inspection to mandatory detention under 8 U.S.C. § 1225(b)(2), and thus to categorical ineligibility for bond hearings before an Immigration Judge.
2. Petitioner is a long-term resident of Laredo, Texas, with strong family and community ties and no criminal record. He entered without inspection approximately four years ago, has worked consistently, and is a documented victim of a violent stabbing assault that occurred in Laredo on [REDACTED]. He has cooperated with law enforcement and has a pending petition for U nonimmigrant status (U visa), as evidenced by his Form I-797C ASC appointment notice in case [REDACTED]. Letters from family and community members

attest to his good moral character and his critical role as stepfather and provider to U.S. citizen children.

3. Petitioner was arrested by Immigration and Customs Enforcement (“ICE”) on or about February 10, 2026, at his work site in Laredo, Texas, and transferred to the Rio Grande Detention Center. Petitioner has not sought a bond redetermination before an Immigration Judge because, under DHS’s July 8, 2025 “applicants for admission” policy, the BIA’s now-vacated decision in *Matter of Yajure Hurtado*, and the Fifth Circuit’s decision in *Buenrostro-Mendez v. Bondi*, Respondents uniformly and categorically assert that individuals in Petitioner’s posture are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and categorically ineligible for bond under 8 U.S.C. § 1226(a). Any request for bond would therefore be futile and is not required before seeking habeas corpus review.
4. Petitioner’s detention without any individualized custody determination, based solely on DHS’s novel reading of § 1225(b)(2) and an unlawful refusal by EOIR to exercise its longstanding bond authority, violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act (“APA”), and binding immigration regulations and precedent, including under the *Accardi* doctrine.
5. Although the Fifth Circuit’s recent decision in *Buenrostro-Mendez v. Bondi*, --- F.4th ---, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), held that noncitizens like Petitioner are statutorily classed as “applicants for admission” under § 1225(b)(2) and thus not entitled to bond hearings under § 1226(a) as a matter of statutory interpretation, that decision expressly did not reach the constitutional due process question. The Fifth Circuit remanded those cases for “further proceedings” consistent with its opinion, which necessarily includes adjudication of due process challenges to mandatory detention. *Buenrostro-Mendez*, 2026 WL 323330, at *10.
6. In the wake of *Buenrostro-Mendez*, district courts within this Circuit—including this District and Division—have consistently held that the government’s new § 1225(b)(2) detention regime, as applied to long-term interior residents, violates procedural due process and cannot be justified solely by reference to the statute’s text. See, e.g., *Elmer Nixon Bonilla Chicas v. Warden*, No. 5:26-cv-00131 (S.D. Tex. Laredo Div. Feb. 20, 2026); *Jesus Lopez-Mejia v. Warden*, No. 5:26-cv-00160 (S.D. Tex. Laredo Div. Feb. 23, 2026); see also *Hermelinda Soriano Altamirano v. Noem*, No. SA-26-CA-00607-XR, 2026 WL ____ (W.D. Tex. Feb. 26, 2026); *Ignacio Sosnava Rodriguez v. Ortega*, No. 1:26-CV-273-RP, (W.D. Tex. Feb. 25, 2026); *Denis Duran Aguila v. Warden*, No. EP-26-CV-241-KC, 2026 (W.D. Tex. Feb. 9, 2026); *Marceau v. Noem*, No. 3:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026).
7. Courts within the Fifth Circuit have held that *Buenrostro Mendez* does not resolve whether DHS’s application of § 1225(b)(2) comports with the Constitution. See *Duran Aguila*, EP-26-CV-241-KC, slip op. at 3–4 (explaining that *Buenrostro Mendez* addressed only statutory interpretation and did not determine whether petitioner’s detention violated his constitutional right to procedural due process); *Lopez Mejia*, 5:26-cv-00160, slip op. at 3 (noting that *Buenrostro Mendez* was limited to a statutory interpretation question and did not address the constitutionality of petitioner’s detention); *Soriano Altamirano*,

SA-26-CA-00607-XR, slip op. at 5–7 (concluding that *Buenrostro Mendez* does not decide whether habeas petitioners are being detained in violation of their constitutional right to procedural due process).

8. Petitioner therefore seeks: (1) a writ of habeas corpus ordering his immediate release from custody under conditions of supervision necessary and reasonable to assure his appearance and the safety of community, or, at minimum, ordering an individualized bond hearing before an Immigration Judge at which the government bears the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger; and (2) declaratory and injunctive relief holding that his detention under the July 8, 2025 DHS “applicants for admission” policy, and the associated refusal of bond jurisdiction by EOIR, violates the Fifth Amendment’s Due Process Clause, the APA, and the Accardi doctrine.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is “in custody in violation of the Constitution or laws or treaties of the United States.” See, e.g., *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). “At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *St. Cyr*, 533 U.S. at 301.
10. This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question) because Petitioner raises claims arising under the Constitution and laws of the United States, including the APA, 5 U.S.C. §§ 701–706.
11. Petitioner seeks declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–2202 and the Court’s inherent equitable powers.
12. Section 1252(b)(9) and the jurisdiction-stripping provisions of § 1252 do not bar this action because Petitioner does not challenge a final order of removal, the merits of his removability, or the discretionary grant or denial of relief from removal. He challenges only the legality of his detention pending removal proceedings, which is outside the scope of § 1252(b)(9). See *Jennings v. Rodriguez*, 583 U.S. 281, 296–300 (2018).
13. Venue lies in this District and Division under 28 U.S.C. § 1391(e) and § 2241(d), as Petitioner is detained at the Rio Grande Detention Center in Laredo, Webb County, Texas, within the Southern District of Texas, Laredo Division, and his immediate custodian is located here. See also *Bonilla Chicas*, No. 5:26-cv-00131 (Laredo Division habeas challenge to § 1225(b)(2) detention); *Lopez-Mejia*, No. 5:26-cv-00160 (same).
14. Neither 8 U.S.C. § 1226 nor 8 U.S.C. § 1225(b) contains a statutory exhaustion requirement for challenges to immigration detention, and 28 U.S.C. § 2241 itself imposes no exhaustion prerequisite. See, e.g., *Jennings v. Rodriguez*, 583 U.S. 281, 295–301 (2018) (adjudicating § 1225/1226 detention claims without imposing an exhaustion requirement); *Zadvydas v. Davis*, 533 U.S. 678 (2001) (same, in post-order detention context).

15. To the extent prudential exhaustion principles apply, they are excused here. Prudential exhaustion is not jurisdictional and may be bypassed where (1) exhaustion would be futile; (2) the agency lacks authority to grant the relief requested; or (3) requiring exhaustion would cause irreparable injury. See, e.g., *Goonsuwan v. Ashcroft*, 252 F.3d 383, 388–89 (5th Cir. 2001) (recognizing futility and lack of authority as exceptions to prudential exhaustion); *Galvez v. Jaddou*, 52 F.4th 821, 832–33 (5th Cir. 2022) (same).
16. Since DHS’s July 8, 2025 policy, ICE and EOIR have taken the categorical position—reaffirmed in this Circuit after *Buenrostro-Mendez*—that noncitizens like Petitioner, arrested in the interior and charged as inadmissible, are “applicants for admission” detained under 8 U.S.C. § 1225(b)(2) and are therefore ineligible for bond hearings under 8 U.S.C. § 1226(a). Immigration Judges in this posture have consistently denied bond jurisdiction and declined to provide hearings. See, e.g., *Maldonado-Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025) (describing IJs’ uniform reliance on the government’s mandatory-detention position); post-*Buenrostro* habeas decisions in this District recognizing that petitioners similarly situated to Mr. Hernandez were categorically denied access to bond hearings. Under these circumstances, asking Petitioner to first request a bond hearing that DHS and EOIR insist does not exist would be an empty formality.
17. Petitioner’s core claim is that his ongoing detention under 8 U.S.C. § 1225(b)(2), as implemented by the July 8, 2025 policy, violates the Constitution, the APA, and the Accardi doctrine, and that he is entitled either to immediate release or to a bond hearing conducted under constitutionally adequate standards (including a clear-and-convincing burden on the government). Neither ICE nor an Immigration Judge has authority to declare the statute as applied unconstitutional, to invalidate DHS’s national detention policy, or to order the type of habeas-style relief Petitioner seeks. The only forum empowered to provide that relief is a federal district court on habeas review.
18. Petitioner is currently deprived of his physical liberty and separated from his family and community. Each additional day of detention inflicts irreparable harm not compensable by money damages. Requiring Petitioner to first attempt to obtain a bond hearing that DHS and EOIR insist is legally unavailable would prolong his unlawful detention and exacerbate that harm for no practical benefit.
19. Multiple courts in this Circuit have granted habeas relief to similarly situated detainees—post-*Buenrostro* and under the same July 8, 2025 policy—without requiring them to first seek a bond hearing from an Immigration Judge. See, e.g., *Elmer Nixon Bonilla Chicas v. Warden*, No. 5:26-cv-00131 (S.D. Tex. Laredo Div. Feb. 12, 2026); *Jesus Lopez-Mejia v. Warden*, No. 5:26-cv-00160 (S.D. Tex. Laredo Div. Feb. 24, 2026); *Hermelinda Soriano Altamirano v. Noem*, No. SA-26-CA-00607-XR (W.D. Tex. Feb. 26, 2026); *Denis Duran Aguila v. Warden*, No. EP-26-CV-241-KC (W.D. Tex. Feb. 14, 2026); *Ignacio Sosnava Rodriguez v. Ortega*, No. 1:26-CV-273-RP (W.D. Tex. Feb. 21, 2026). These cases implicitly or explicitly recognize that exhaustion of a futile request for a non-existent bond hearing is not a prerequisite to habeas relief.

20. Accordingly, Petitioner is not required to exhaust discretionary, non-statutory “bond” avenues within the immigration system before filing this habeas petition, and any prudential exhaustion requirement is excused.

III. PARTIES

21. Petitioner, Edgar Reynaldo Hernandez Vite (A# [REDACTED]), is a native and citizen of Mexico, born in 1997 in Xilitla, San Luis Potosi, Mexico. He entered the United States without inspection on or about July 14, 2022, at or near Laredo, Texas. Since that time he has resided continuously in Laredo, Texas. He is the stepfather of U.S. citizen children, who have described his role as a caregiver and provider. He has no criminal history. He is currently detained in the custody of U.S. Immigration and Customs Enforcement at the Rio Grande Detention Center in Laredo, Texas.
22. Respondent Warden, Rio Grande Detention Center, is the official who has immediate physical custody of Petitioner and is a proper respondent in this habeas action.
23. Respondent Field Office Director, ICE San Antonio Field Office, is the ICE official responsible for Petitioner’s immigration custody and detention and is sued in her official capacity.
24. Respondent U.S. Immigration and Customs Enforcement is the agency within DHS responsible for arresting, detaining, and removing noncitizens.
25. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security and is responsible for the administration and enforcement of the immigration laws, including the July 8, 2025 policy interpreting § 1225(b)(2). She is sued in her official capacity.
26. Respondent Pamela Bondi is the Attorney General of the United States and is responsible for the Executive Office for Immigration Review (“EOIR”) and the Board of Immigration Appeals (“BIA”), including their rules and practices regarding bond jurisdiction. She is sued in her official capacity.

IV. FACTUAL ALLEGATIONS

A. Petitioner’s Entry and Residence in the United States

27. Petitioner last entered the United States without inspection on or about July 14, 2022, at or near Laredo, Texas.
28. Since that time, Petitioner has continuously resided in Laredo, Texas. He has maintained steady employment in the area and was arrested by ICE at his work site, underscoring that ICE could have supervised him in the community rather than detaining him.
29. Petitioner has significant family and community ties in Laredo. Two U.S. citizen stepchildren, A.Q. (born in 2011) and Y.Q. (born in 2015), each attest that Petitioner is

their stepfather, that he has taken care of them and their family, provided food and support, and that he is a good, hardworking person who does not deserve to be detained.

30. Petitioner possesses a current Mexican passport issued in Laredo on November 8, 2023, expiring November 8, 2026, further evidencing that he has planned and organized his affairs responsibly and is easily identifiable for immigration purposes without the need for detention.

B. Petitioner's Victimization and Pending U Visa Petition

31. On or about [REDACTED] while residing in Laredo, Petitioner was the victim of a violent assault in which he was stabbed. The Texas Attorney General's Office has communicated with Petitioner regarding his claim as a crime victim (Claim No. [REDACTED]), in letters dated October 16, 2023, and January 12, 2024, confirming his status as a victim in connection with the [REDACTED] crime and requesting additional documentation for his Crime Victim Compensation application.
32. Petitioner reported the crime to local law enforcement and cooperated with victim services, including the Laredo Police Department victim services professionals referenced in the Attorney General's letters. This cooperation positioned him as a qualifying victim for U nonimmigrant status.
33. Petitioner subsequently filed a Petition for U Nonimmigrant Status (Form I-918) with U.S. Citizenship and Immigration Services. On April 19, 2024, USCIS issued an ASC Appointment Notice (Form I-797C, Notice of Action) in case [REDACTED], confirming receipt and processing of Petitioner's U visa petition and scheduling him for biometrics collection. The notice identifies him as "EDGAR REYNALDO VITE HERNANDEZ," lists A# [REDACTED] and states that USCIS must collect his biometrics to process the petition.
34. Petitioner's U visa petition remains pending. As a bona fide U visa applicant and victim of qualifying criminal activity, Petitioner is eligible for deferred action and employment authorization and is a strong candidate for ultimate relief from removal. DHS's detention of Petitioner as an "applicant for admission" under § 1225(b)(2) disregards his distinct statutory posture as a crime victim seeking protection.

C. ICE Arrest and Detention Under the July 8, 2025 "Applicants for Admission" Policy

35. On or about February 10, 2026, ICE officers arrested Petitioner at his work site in Laredo, Texas, and transferred him to the Rio Grande Detention Center. Petitioner, like the class representative in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025), is a long-term resident with no criminal history who was working and living in the United States when ICE arrested him in the interior.
36. Following his arrest, DHS charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as an alien present in the United States without being admitted or paroled and placed him in removal proceedings under 8 U.S.C. § 1229a. EOIR's automated

case-information system reflects that his case was docketed in the Immigration Court on or about February 11, 2026, but the system currently shows his case as “pending” with no future hearings scheduled. Because undersigned counsel has not yet been able to file a notice of appearance, counsel has not been provided a copy of the Notice to Appear and does not know the precise allegations or charges it contains beyond the inadmissibility ground reflected in ICE and EOIR records.

37. Pursuant to DHS’s July 8, 2025 national policy re-interpreting “applicants for admission” in 8 U.S.C. § 1225(b)(2)(A) to include long-term interior residents encountered by ICE, DHS has classified Petitioner as an “applicant for admission” subject to mandatory detention under § 1225(b)(2)(A) and has treated him as categorically ineligible for bond hearings under 8 U.S.C. § 1226(a). In keeping with that policy and the Fifth Circuit’s statutory holding in *Buenrostro-Mendez v. Bondi*, DHS and EOIR take the position that individuals in Petitioner’s posture may not seek bond redetermination before an Immigration Judge.
38. Petitioner is currently detained at the Rio Grande Detention Center in Laredo, Texas. He has never been previously removed or required to depart voluntarily from the United States, and he has never been released on bail or other conditions in immigration or criminal proceedings. He has no criminal history.

D. Denial of Access to Bond Jurisdiction and Failure to Provide Individualized Custody Review

39. To date, Petitioner has not sought a bond redetermination before the Immigration Court because, under DHS’s July 8, 2025 policy, the BIA’s now-vacated decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and the Fifth Circuit’s decision in *Buenrostro-Mendez*, DHS and EOIR have consistently and uniformly taken the position in this Circuit that noncitizens in Petitioner’s posture are detained under 8 U.S.C. § 1225(b)(2), that Immigration Judges lack jurisdiction to redetermine their custody under 8 U.S.C. § 1226(a), and that they are not entitled to bond hearings at all. In light of this categorical position and the experience of similarly situated detainees, any request by Petitioner for a bond hearing would be futile and is not a prerequisite to habeas relief.
40. In *Maldonado Bautista*, for example, an Immigration Judge refused to conduct a bond hearing for the class representative and instead issued a decision stating he lacked jurisdiction based on *Yajure Hurtado*. See *Maldonado Bautista et al. v. Santacruz et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025), Order at 4–5. Post-*Buenrostro*, similarly situated detainees in this Circuit have repeatedly been told that they are subject to mandatory detention under § 1225(b)(2) and are ineligible for bond, prompting district courts to grant habeas relief without requiring prior resort to Immigration Court bond procedures.
41. The BIA’s *Yajure Hurtado* decision has since been vacated by the Ninth Circuit in *Sykes v. EOIR* (as reflected in the Central District of California’s February 18, 2026 order vacating reliance on *Yajure Hurtado* and issuing class-wide relief in *Maldonado Bautista*), and EOIR has issued guidance acknowledging that it may no longer rely on *Yajure Hurtado* outside the Fifth Circuit. Nonetheless, in this Circuit DHS and EOIR continue to use similar

reasoning, now relying on *Buenrostro-Mendez*'s statutory holding, to deny interior bond hearings to § 1225(b)(2) detainees and to assert that Immigration Judges lack bond jurisdiction over them.

42. As a result, Petitioner has not been afforded any meaningful, adversarial, individualized custody determination by a neutral decisionmaker at which DHS bears the burden of justifying his ongoing detention, despite his clean record, strong family ties, pending U visa petition, and status as a crime victim.
43. Petitioner's detention has already lasted weeks and, given current EOIR backlogs and USCIS adjudication times for U visas, threatens to stretch to many months or longer, with no statutory or regulatory mechanism for periodic review by a neutral decisionmaker.
44. The prolonged and potentially indefinite nature of Petitioner's detention, combined with the categorical denial of access to bond hearings under § 236(a) and the absence of any individualized due process, distinguishes his case from brief, time-limited inspections at a port of entry and triggers full procedural protections under the Fifth Amendment.

V. CLAIMS FOR RELIEF

A. CLAIM ONE VIOLATION OF THE FIFTH AMENDMENT – PROCEDURAL DUE PROCESS (*Mathews v. Eldridge* Balancing; Post-*Buenrostro* Due Process)

45. Petitioner re-alleges and incorporates by reference paragraphs 1–44.
46. The Fifth Amendment's Due Process Clause applies to all "persons" within the United States, including noncitizens, regardless of their manner of entry. See *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Even for an inadmissible noncitizen, the government must provide procedures consistent with due process when it imposes prolonged physical detention. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) ("a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification, and a fair opportunity to rebut"); *Zadvydas*, 533 U.S. at 690–91.
47. The Supreme Court has not held that § 1225(b)(2) authorizes the indefinite or prolonged detention of interior noncitizens without individualized process. See *Jennings*, 583 U.S. at 301–02 (rejecting the canon of constitutional avoidance and remanding due process question for further proceedings).
48. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the Court weighs: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation through the procedures used, and the probable value of additional safeguards; and (3) the government's interest, including the burdens of additional procedures.
49. Petitioner's interest in freedom from physical confinement is "fundamental" and "core" to the liberty protected by the Constitution. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Lopez-Mejia*, 5:26-cv-00160, slip op. at 3–4 (describing liberty interest in freedom from

- confinement as weighty and fundamental); *Soriano Altamirano*, SA-26-CA-00607-XR, slip op. at 6–7. Petitioner’s detention has separated him from his U.S. citizen stepchildren, his partner, and his Laredo community, and has disrupted his employment and ability to pursue his U visa and other relief. His private interest is particularly strong given his role as stepfather and provider, his status as a crime victim cooperating with law enforcement, and his lack of any criminal history.
50. The current procedure—categorical denial of bond jurisdiction based solely on DHS’s statutory label as “applicant for admission” and the July 8, 2025 policy—creates an extraordinarily high risk of erroneous deprivation. ICE agents make custody decisions unilaterally, without neutral review, and EOIR refuses to exercise its traditional bond authority. As multiple courts have recognized, this regime effectively nullifies decades of practice under § 236(a), in which noncitizens apprehended in the interior received individualized bond hearings. See *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, Order at 4–5 (describing hundreds, if not thousands, of noncitizens with deep ties and no criminal history detained on this basis).
 51. The risk of error is heightened for people like Petitioner, who have compelling equities—long residence, family ties, pending U visa as crime victim, no criminal history—but are nonetheless swept into mandatory detention with no opportunity to present evidence of flight risk or danger to an impartial adjudicator. A brief, adversarial bond hearing before an Immigration Judge, with the government bearing the burden of justification by clear and convincing evidence, would significantly reduce the risk of erroneous detention while imposing minimal administrative burden, as numerous district courts have ordered. See, e.g., *Duran Aguila*, EP-26-CV-241-KC, slip op. at 4–5 (ordering release on \$1,500 bond or a new bond hearing at which government bears burden); *Bonilla Chicas*, 5:26-cv-00131, slip op. at 22–23 (ordering immediate release with conditions and requiring bond hearing in event of redetention); *Lopez-Mejia*, 5:26-cv-00160, slip op. at 3–4 (granting habeas on procedural due process grounds and ordering immediate release with safeguards).
 52. The government has legitimate interests in ensuring that noncitizens appear for removal proceedings and in protecting the community. However, those interests do not justify blanket, no-bond detention without individualized process, particularly for long-term residents, crime victims, and U visa applicants with strong ties and no criminal record. Courts within this Circuit have repeatedly held that the government’s interests can be adequately protected by bond hearings or conditions of supervision, and that the incremental administrative burden of such hearings is minimal compared to the fundamental liberty interests at stake. See *Soriano Altamirano*, SA-26-CA-00607-XR, slip op. at 6–7; *Sosnava Rodriguez*, 1:26-CV-273-RP, slip op. at 3–4; *Duran Aguila*, EP-26-CV-241-KC, slip op. at 4–5.
 53. Under *Mathews*, Petitioner’s ongoing detention without a bond hearing or comparable individualized process violates procedural due process. As the Laredo Division recently concluded, “because Petitioner’s detention violates his rights under the Due Process Clause of the Fifth Amendment, he is entitled to equitable relief and the appropriate remedy is Petitioner’s immediate release from custody with additional safeguards against redetention.” *Lopez-Mejia*, 5:26-cv-00160, slip op. at 4.

54. *Buenrostro-Mendez* does not alter this conclusion. *Buenrostro* addressed only whether the statutory text of § 1225(b)(2) could be construed to avoid mandatory detention for interior noncitizens; it expressly confined itself to statutory interpretation and remanded for further proceedings, leaving open constitutional challenges. See *Buenrostro-Mendez*, 2026 WL 323330, at *1–10. As multiple courts have recognized, reliance on the statute’s text to reject due process claims is circular—“recent cases (and government arguments) rejecting due process challenges to detention based on the text of Section 1225 rely on circular reasoning.” See *Hassen v. Noem*, No. 3:26-cv-48-DB, at *4 n.1 (W.D. Tex. Feb. 9, 2026); see also *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *1 (W.D. Tex. Feb. 20, 2026); *Azua-Zuniga v. Bondi*, No. 1:26-CV-287-RP, 2026 WL 482453, at *3 (W.D. Tex. Feb. 20, 2026); *Aleska Jamaly Bonilla Conforme v. De Anda-Ybarra*, No. EP-26-CV-263-KC, 2026 WL 381110, at *1–2 (W.D. Tex. Feb. 11, 2026).
55. Accordingly, Petitioner’s continued detention under § 1225(b)(2), without any individualized custody determination and without an opportunity to be heard before a neutral adjudicator, violates the Fifth Amendment’s procedural due process requirements.

B. CLAIM TWO VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (Arbitrary and Capricious Agency Action; Unlawful Policy; Failure to Consider Relevant Factors)

56. Petitioner re-alleges and incorporates by reference paragraphs 1–55.
57. The Administrative Procedure Act, 5 U.S.C. §§ 701–706, permits judicial review of “final agency action for which there is no other adequate remedy in a court.” 5 U.S.C. § 704. Petitioner challenges DHS’s July 8, 2025 policy and related implementation decisions as unlawful “agency action” under §§ 702 and 706(2).
58. DHS’s July 8, 2025 policy re-interpretation of § 1225(b)(2)(A) to categorically treat interior, long-term residents as “applicants for admission,” subject to mandatory detention and ineligible for § 236(a) bond hearings, constitutes final agency action that: (a) is arbitrary and capricious, an abuse of discretion, and otherwise not in accordance with law, in violation of 5 U.S.C. § 706(2)(A); (b) was adopted without observance of procedure required by law, including notice-and-comment where required, in violation of 5 U.S.C. § 706(2)(D); and (c) violates the Constitution, in violation of 5 U.S.C. § 706(2)(B).
59. For decades prior to July 8, 2025, DHS and its predecessor agencies interpreted the INA such that noncitizens apprehended in the interior were generally treated as subject to § 236(a) discretionary detention and eligible for bond hearings before Immigration Judges. For decades, authorities interpreted the act such that noncitizens apprehended in the interior of the country were generally entitled to go before an immigration judge and argue for their release.
60. The July 8, 2025 policy marked a dramatic departure from this settled understanding, suddenly reclassifying thousands of long-term interior residents as “applicants for admission” subject to no-bond detention under § 1225(b)(2). DHS implemented this change without reasoned explanation or consideration of reliance interests developed under the prior regime, and without adequately considering the constitutional implications of prolonged detention without individualized process.
61. In reclassifying long-term residents like Petitioner as “applicants for admission” for detention purposes, DHS failed to consider critical aspects of the problem, including: (1) the difference between recently arriving noncitizens at the border and long-term interior

residents with deep family and community ties; (2) the severe liberty deprivation imposed by prolonged detention; (3) the status of crime victims and U visa petitioners, whose detention frustrates congressional objectives of encouraging cooperation with law enforcement; and (4) the availability of less restrictive alternatives, such as bond or supervised release, to achieve its interests in appearance and community safety.

62. DHS likewise failed to reconcile its new interpretation with its historical practice, existing regulations, and BIA precedent recognizing EOIR's bond authority under § 236(a) over noncitizens arrested in the interior, resulting in an unexplained change that is arbitrary and capricious. See, e.g., *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (agency must provide a reasoned explanation for departing from prior policy, taking account of serious reliance interests).
63. The July 8, 2025 policy has been widely recognized by district courts as unlawfully implemented and applied, and courts have repeatedly set aside its application in individual habeas cases, ordering either release or bond hearings. See *Bonilla Chicas*, 5:26-cv-00131; *Lopez-Mejia*, 5:26-cv-00160; *Soriano Altamirano*, SA-26-CA-00607-XR; *Sosnava Rodriguez*, 1:26-CV-273-RP; *Duran Aguila*, EP-26-CV-241-KC; *Marceau*, 2026 WL 368953.
64. As applied to Petitioner—a four-year resident of Laredo, a victim of stabbing with a pending U visa petition, a stepfather to U.S. citizen children, and a person with no criminal history—the July 8, 2025 policy and resulting detention decisions are arbitrary, capricious, contrary to law, and unconstitutional, and therefore must be set aside under 5 U.S.C. § 706(2).

C. CLAIM THREE VIOLATION OF THE ACCARDI DOCTRINE (Failure to Follow Binding Regulations and Precedent; Unlawful Denial of Bond Jurisdiction)

65. Petitioner re-alleges and incorporates by reference paragraphs 1–64.
66. Under the *Accardi* doctrine, administrative agencies must follow their own regulations and binding precedents. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Where the government fails to follow its own rules in a manner that prejudices an individual, the resulting action is unlawful and must be set aside.
67. DHS and EOIR regulations and longstanding precedent establish that noncitizens in removal proceedings under § 240, who are detained under § 236(a), are entitled to bond hearings before Immigration Judges. This framework has historically been applied to noncitizens arrested in the interior, even when they are inadmissible under § 1182(a)(6)(A)(i).
68. For Petitioner, however, EOIR has effectively denied him access to bond jurisdiction by adopting DHS's unilateral classification under the July 8, 2025 policy and the BIA's now-vacated decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as well as the Fifth Circuit's statutory holding in *Buenrostro-Mendez*. Immigration Judges in this Circuit have been instructed and have repeatedly held in similarly situated cases that they lack bond jurisdiction over noncitizens whom DHS classifies as detained under 8 U.S.C. § 1225(b)(2), and that such individuals are categorically ineligible for bond hearings under 8 U.S.C. § 1226(a). In light of that entrenched practice and uniform position, any request

by Petitioner for a bond redetermination would inevitably be denied on jurisdictional grounds and is therefore futile; EOIR's de facto refusal to exercise its established bond authority rests solely on DHS's unilateral reclassification and the now-repudiated *Yajure* framework, in violation of the *Accardi* doctrine.

69. By categorically refusing to exercise bond jurisdiction for Petitioner and other similarly situated § 1225(b)(2) detainees, EOIR has effectively changed its bond rules and practices without amending its regulations through required procedures, in violation of *Accardi*. See *Maldonado Bautista*, 5:25-cv-01873-SSS-BFM, Order at 4–5 (describing how *Yajure Hurtado* and the new policy led Immigration Judges to refuse bond hearings, contrary to longstanding practice); see also BONDS class notice (advising detainees that they may be entitled to bond hearings notwithstanding DHS's position).
70. This failure to follow established regulations and precedent has unlawfully deprived Petitioner of the right to seek release on bond or conditional parole under § 236(a), in violation of *Accardi* and due process.

D. CLAIM FOUR UNLAWFUL DETENTION UNDER *MALDONADO-BAUTISTA*; DISTINGUISHING BUENROSTRO-MENDEZ (Improper Application of Mandatory Detention to Long-Term Interior Residents)

71. Petitioner re-alleges and incorporates by reference paragraphs 1–70.
72. In *Maldonado Bautista et al. v. Santacruz et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025), the district court certified a class challenging DHS's practice of reclassifying long-term interior residents as "applicants for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and EOIR's refusal to provide bond hearings. The class consisted of noncitizens who: (1) were arrested by ICE in the interior of the United States, away from a port of entry; (2) had been living and working in the United States for a significant period of time and had no disqualifying criminal history; and (3) were placed in removal proceedings and detained under § 1225(b)(2) without access to bond hearings under § 236(a). The court held that such individuals could seek release on bond or conditional parole under § 236(a) and ordered class-wide relief.
73. Petitioner falls squarely within this framework: (1) he was arrested by ICE in the interior, at his work site in Laredo, not at a port of entry; (2) he has lived in the United States for approximately four years, has steady employment, strong family and community ties, and no criminal record; and (3) he has been placed in removal proceedings and is being detained under § 1225(b)(2), with DHS and EOIR treating him as categorically ineligible for bond under § 236(a).
74. *Maldonado Bautista's* reasoning underscores that the government's current detention scheme for interior residents like Petitioner is inconsistent with the INA, arbitrary and capricious under the APA, and unconstitutional under due process principles. It further highlights that long-term interior residents are materially different from recent border crossers for whom § 1225(b)(2) was historically designed.

75. *Buenrostro-Mendez* addressed only one narrow question: how to interpret the statutory text of § 1225(b)(2) in the context of two specific petitioners, both of whom had lived in the United States for many years but whose habeas petitions had already been granted on statutory grounds, resulting in their release. The Fifth Circuit did not: (1) decide that indefinite or prolonged detention without process is constitutional; (2) overrule or vacate *Maldonado Bautista*; or (3) address whether EOIR may refuse bond jurisdiction for all § 1225(b)(2) detainees. See *Buenrostro-Mendez*, 2026 WL 323330, at *1–10.
76. Indeed, the Fifth Circuit remanded *Buenrostro-Mendez* “for further proceedings” rather than ordering dismissal, which—as district courts within this Circuit have recognized—leaves open the due process and APA challenges to the government’s detention policy. See *Duran Aguila*, EP-26-CV-241-KC, slip op. at 3–5; *Soriano Altamirano*, SA-26-CA-00607-XR, slip op. at 5–7; *Lopez-Mejia*, 5:26-cv-00160, slip op. at 3–4; *Bonilla Chicas*, 5:26-cv-00131, slip op. at 9–11.
77. Petitioner’s case is particularly compelling relative to *Buenrostro-Mendez*. Unlike the petitioners in *Buenrostro-Mendez*, Petitioner: (a) is a recent victim of serious violent crime in the United States; (b) has a pending U visa petition documenting his cooperation with law enforcement; (c) has minor U.S. citizen stepchildren who rely on him; and (d) has no criminal history whatsoever. Subjecting him to categorical mandatory detention with no bond hearing is especially incongruent with congressional intent to protect crime victims and encourage their cooperation with law enforcement.
78. Accordingly, under the reasoning of *Maldonado Bautista* and in light of the limitations of *Buenrostro-Mendez*, Petitioner’s ongoing detention under § 1225(b)(2) without individualized process is unlawful and must be terminated.

VI. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

- A. Assume jurisdiction over this matter under 28 U.S.C. § 2241;
- B. Issue a writ of habeas corpus ordering Respondents to IMMEDIATELY RELEASE Petitioner from immigration custody to a public place within the Southern District of Texas, under conditions of supervision necessary and reasonable to assure his appearance and the safety of community, by a date certain set by the Court, consistent with the relief granted in *Lopez-Mejia*, *Soriano Altamirano*, *Bonilla Chicas*, *Sosnava Rodriguez*, and *Duran Aguila*;
- C. In the alternative, order Respondents to provide Petitioner, by a date certain, with an individualized bond hearing before an Immigration Judge at which:
 1. The government bears the burden to justify continued detention by clear and convincing evidence that Petitioner presents a flight risk or danger to the community;
 2. The Immigration Judge must consider Petitioner’s family and community ties, lack of criminal history, status as a victim of crime, pending U visa, and any other relevant factors;

3. The Immigration Judge must consider and articulate why less restrictive alternatives to detention (including bond and conditions of supervision) would not be sufficient to satisfy the government's interests; and

4. If the government cannot meet its burden, the Immigration Judge must order Petitioner released on reasonable bond or appropriate conditions of supervision;

D. Declare that, as applied to Petitioner, the July 8, 2025, DHS "applicants for admission" detention policy, and EOIR's categorical refusal to provide bond hearings under § 236(a), violate the Fifth Amendment's Due Process Clause, the APA, and the Accardi doctrine;

E. Enjoin Respondents from re-detaining Petitioner in the future under § 1225(b)(2) without first providing him a constitutionally adequate, individualized custody hearing consistent with this Court's order;

F. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Jorge G. Trevino

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Edgar Reynaldo Hernandez Vite, and submit this verification on his behalf. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof. I hereby verify that the factual statements made therein are true and correct to the best of my knowledge, information, and belief.

Dated: March 5, 2026

/s/ Jorge G. Trevino
JORGE G. TREVINO
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March, 2026, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record who are registered Filing Users.

I further certify that because this is an initial filing commencing a new civil action, service of the Summons and Petition will be performed in accordance with Federal Rule of Civil Procedure 4(i).

/s/ Jorge G. Trevino

JORGE G. TREVINO