

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

KARINA RAMIREZ VERA

Petitioner,

v.

MIGUEL VERGARA, *in his official capacity as Field Office Director*; Kristi NOEM, *in her official capacity as Secretary, U.S. Department of Homeland Security*; Pamela BONDI, *in her official capacity as U.S. Attorney General; Executive Office for Immigration Review*; WARDEN, *in his official capacity as Warden of Laredo Processing Center*

Respondents.

Case No.5:26-cv-00331

JUDGE JOHN A. KAZEN

**MAGISTRATE JUDGE DIANA SONG
QUIROOGA**

PETITIONER'S BRIEF

INTRODUCTION

Petitioner, Karina Ramirez-Vera (“Petitioner” or “Mrs. Ramirez-Vera”), acknowledges the Fifth Circuit’s recent decision in *Buenrostro v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Even assuming *Buenrostro* controls certain statutory interpretation questions concerning detention under 8 U.S.C. § 1225(b)(2), it does not resolve the independent constitutional question presented here: whether the Government may detain an individual who has lived at liberty for an extended period of time without providing an individualized custody determination. That

constitutional claim remains squarely before this Court. Respondents are therefore not entitled to judgment as a matter of law.

BACKGROUND

Mrs. Ramirez-Vera entered the United States with a B-2 visa in March of 2004 (Legal Entry). She has had no previous interactions with immigration authorities. She is married and has two children, one of whom is a U.S. Citizen and one of whom is a Lawful Permanent Resident. Mrs. Ramirez-Vera has a pending U-Visa before USCIS which has placed her in a Deferred Status and also has a pending I-130 Petition filed through her U.S. Citizen daughter. Mrs. Ramirez-Vera has several paths to residency through her legal entry as well as through her U-Visa which will result in Lawful Permanent Resident Status once completely approved.

Mrs. Ramirez-Vera was arrested and detained by local authorities during an ICE checkpoint stop. After her arrest the officers turned her over to US Immigration and Customs Enforcement (ICE) resulting in her current immigration detention. She is currently detained at the Laredo Processing Center in Laredo, Texas

Mrs. Ramirez-Vera filed a petition on the basis that her detention violates the Immigration and Nationality Act on March 6, 2026. *See* ECF No. 1. The petition established that Respondents had violated her substantive and procedural due process rights under the Fifth Amendment on several grounds.

ARGUMENT

I. THIS COURT HAS JURISDICTION TO HEAR MRS. RAMIREZ-VERA'S PETITION

The Court has jurisdiction under 28 U.S.C. § 2241 (c)(3) to grant a writ of habeas corpus to a person in custody in violation of the Constitution, laws, or treaties of the United States.

Demore v. Kim, 538 U.S. 510, 517 (2003). “[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States.” *Hamdi v. Rumsfeld* 542 U.S. 507, 525 (2004) (citing the Suspension Clause). A habeas petitioner has “the burden of sustaining his allegations by a preponderance of evidence.” *Walker v. Johnson*, 312 U.S.275, 286 (1941). A court considering a habeas petition must “determine the facts, and dispose of the matter as law and justice require.” 28 U.S.C. §2243. When the Court finds a petitioner’s constitutional rights have been violated, the Petitioner is entitled to the issuance of a writ. *Id.*

Because Petitioner is in ICE Custody within this District, this Court has jurisdiction over both her custodian and the claims arising from that detention.

II. PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION UNDER THE EXPEDITED REMOVAL STATUTE, 8 U.S.C. § 1225(b)(2)(A)

Petitioner adds an abbreviated argument here to preserve the record. Respondents argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). The plain language of § 1225(b)(2) does not apply to noncitizens encountered within the United States and mandatory detention violates a plain reading of the Immigration and Nationality Act (“INA”). *See Argueta Coj v. Noem*, No 1: 25-cv-01655 (W.D. La., Jan 12, 2026).

Therefore, Petitioner’s detention is unlawful because it is in violation of a plain reading of 8 U.S.C. § 1225(b)(2), which governs noncitizens who are “applicants for admission, if the examining officer determines” the noncitizen *seeking* admission “is not clearly and beyond a doubt entitled to be admitted.

III. BUENROSTRO IS NOT DISPOSITIVE ON THE THIRD CLAIM ON DUE PROCESS, AND HABEAS RELIEF REMAINS AVAILABLE

Petitioner brought this action stating three claims: first, seeking a declaratory judgment that Petitioner’s detention is in violation of the INA and that she was subject to relief as a member of the bond eligible class defined in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-

BFM, ---F. Supp. 3d ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); secondly that her mandatory detention is unlawful under the interpretation of 8 U.S.C. §§ 1225 and 1226; finally Mrs. Ramirez-Vera stated that her continued detention was a violation of her procedural due process rights. While this court may find that *Buenrostro* is dispositive of the first two claims for relief, the Fifth Circuit was notably silent on the third other than a passing mention of the Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 701 (2001) does not apply to individuals in pending removal proceedings, but rather to individuals who already have a final order of removal.

After *Buenrostro*, several judges in the Fifth Circuit have granted habeas petitions strictly on a due process cause of action. As Judge Cardone explained:

The Court's conclusion is not changed by the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*. Marceau argues that her detention without an opportunity for a meaningful individualized custody determination is unlawful on both statutory grounds, as well as constitutional due process grounds... [T]he *Buenrostro-Mendez* court did not reach the due process question, confining its analysis and holding to statutory interpretation. And the case was remanded to the district court, not for dismissal, but "for further proceedings consistent with this opinion." Presumably, those further proceedings will entail consideration of *Buenrostro-Mendez*'s due process claim, which the district court declined to reach in the first instance. Indeed, the Government's counsel stated it bluntly during oral argument: "We have one issue before the Court now: The statutory question. ...There's not, in other words, a due process claim here." In sum *Buenrostro-Mendez* has no bearing on this Court's determination of whether Marceau is being detained in violation of her Constitutional right to due process.

Marceau v Noem, No. EP-26-CV-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026)(internal citations omitted. Judge Cardone went on to grant the habeas petition on procedural due process grounds. *Id. See also Aguila v. Warden*, No. EP-26-CV-241-KC, at 3–4 (W.D. Tex. Feb. 9, 2026) ("The Court's conclusion is not changed by the Fifth Circuit's recent decision in *Buenrostro-Mendez* *Buenrostro-Mendez* has no bearing on this Court's determination of whether Duran Aguila is being detained in violation of his constitutional right to procedural due process."); *Azua-Zuniga v. Bondi*, No. 1:26-CV-287-RP, 2026 WL 482453, at *3 (W.D. Tex. Feb. 20, 2026) *Bonilla Chicas v. Warden*, No. 5:26-CV-00131 (S.D. Tex. Feb. 20, 2026); *Casas-*

Mondragon v. Bondi, No. 1:26-CV-00231-RP, Order, Dkt. 11 at 4–5 (W.D. Tex. Feb. 23, 2026); *Clemente Ceballos v. Garite*, No. 3:26-CV-00312-DB (W.D. Tex. Feb. 10, 2026); *Hassen v. Noem*, No. EP-26-CV-00048-DB, at 4 n.1 (W.D. Tex. Feb. 9, 2026) ("*Buenrostro-Mendez* does not change this case's outcome on procedural due process grounds."); *Montufar v. Thompson*, No. 5:26-CV-00422-FB (W.D. Tex. Feb. 24, 2026); *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026)

That noncitizens are entitled “to due process of law in the context of removal proceedings” is “well established.” *Trump v J.G.G.*, 604 U.S. 670, 673 (2025) (per curiam) quoting *Reno v Flores*, 507 U.S. 292, 306, (1993). Here, Petitioner has lived in the United States for more than 5 years, is the mother of two children, one of whom is a U.S. Citizen Child with medical needs is apparent as why due process is violated when Respondents seek to detain her in jail-like conditions without the opportunity to review her detention before a neutral magistrate.

The Court should apply the familiar three prong balancing test to Petitioner’s due process claim. *Mathews v Eldridge*, 424 U.S. 319, 335 (1976).

On the first Mathews factor, the private interest is profound. Freedom from physical restraint is among the most fundamental liberty interests protected by the Fifth Amendment. Petitioner’s more than 5 years of residence, her 2 children, one of whom is a U.S. Citizen Child amplify this interest. The Fifth Amendment entitles noncitizens to due process of law in the context of removal proceedings,” and “the interest in being free from physical detention by [the] government” is “the most elemental of liberty interests[.]” See *Lopez-Arevalo v Ripa*, No. EP-25-CV-430-KC, 2025 WL 2965859 at *2 (W.D. Tex. Oct. 21, 2025), and *Hamdi v Rumsfeld*, 542 U.S. 507, 529 (2004). Those courts have found that because the petitioners established a life here—albeit without authorization—they possessed a strong liberty interest in their freedom from detention.” *Martinez v Noem*, 2025 WL 2965859, at *4. See also *Cruz-Reyes v Bondi*, NO. 5:26-

CV-60, 2026 WL 332315, at *7 (S.D. Tex. Feb. 3, 2026). Petitioner has reserved the right to appeal her Immigration proceedings, but should not be detained during the pendency of her appeal.

On the second factor, the risk of erroneous deprivation is substantial. The sole purposes of immigration detention are to mitigate flight risk and danger to the community. Without individualized custody determination, there is no mechanism to assess whether detention is necessary in this case. Courts within and outside this Circuit have recognized that without an individualized determination of detention that indefinite detention offends due process.

On the third factor, the Government's interest is fully accommodated by a bond hearing. Providing a neutral custody determination imposes minimal administrative burden and reflects procedures long used in immigration proceedings. The Government's generalized interest in detention cannot outweigh Petitioner's constitutional liberty interest, which exists independent of statutory interpretation.

Accordingly, all three *Mathews* factors militate in favor of Petitioner, and this Court should grant judgment to Petitioner on the third cause of action, violation of due process. Petitioner claims the constitutional right to fair procedures before the Government deprives her of physical liberty.

IV. MRS. RAMIREZ-VERA HAS EFFECTUATED HER APPEAL BEFORE THE BOARD OF IMMIGRATION APPEALS

On March 6, 2026, Mrs. Ramirez-Vera has appealed her Immigration case to the Board of Immigration Appeals (BIA). Please see BIA Appeal Receipt attached hereto. The appeal is currently pending and is anticipated to be pending for more than 6 months before the appeal is adjudicated before the Board. Mrs. Ramirez-Vera would be detained throughout the appeals process and her constitutional liberty interest would be further harmed.

CONCLUSION

For these reasons, the Petition should be granted and Petitioner ordered released from custody.

Dated: March 16, 2026

Respectfully submitted,

/s/ Nathaniel Green
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CERTIFICATE OF SERVICE

I, Nathaniel Green, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by mail to those indicated as non-registered participants on March 16, 2026.

/s/ Nathaniel Green
Nathaniel Green