

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

QUEVEDO RIVERA, DERIX ANTONIO

Petitioner,

v.

JAMISON, J.L., et al.

Respondents.

Civil Action No. 26-1653

(Judge Costello)

**PETITION FOR WRIT OF HABEAS
CORPUS**

PETITIONER'S TRAVERSE TO RESPONDENTS' ANSWER TO
PETITION FOR WRIT OF HABEAS CORPUS

PRELIMINARY STATEMENT

Mr. Quevedo Rivera, was arbitrarily detained by the Department of Homeland Security (DHS) and has been detained without access to any legal remedy. His ongoing detention violates the Immigration and National Act (INA), Fifth Amendment due process, and the Administrative Procedure Act (APA), and the Court should order Respondents to immediately release him from detention because his detention has been unlawful since its inception.

ARGUMENT

I. Mr. Quevedo Rivera is Detained Pursuant to 8 U.S.C. § 1226(a), not § 1225(b)(2)

Mr. Quevedo Rivera’s continued detention under 8 U.S.C. § 1225(b)(2) is contrary to the plain text, structure, and longstanding implementation of the Immigration and Nationality Act (INA). Section 1225(b)(2) applies to individuals who are “applicants for admission” and who are “seeking admission” into the United States. By its plain interpretation, the phrase “seeking admission” refers to individuals presenting themselves at or near a port of entry or otherwise attempting to enter the country. It does not encompass individuals who already effected entry and have been physically present in the United States for an extended period of time. *See Cantu-Cortes v. O’Neill*, No. 25-cv-6338, 2025 WL 3171639, at *2 (E.D. Pa. Nov. 13, 2025) (Kenney, J.); *Kashranov v. Jamison*, No. 25-cv-5555, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025) (Wolson, J.); *Demirel v. Fed. Det. Ctr. Phila.*, 2025 WL 3218243, at *5 (E.D. Pa. Nov. 18, 2025) (Diamond, J.); *Patel v. O’Neil*, 2025 WL 3516865 (M.D. Pa. Dec. 8, 2025) (Mariana, R.); *see, e.g., Calzado Diaz v. Noem*, No. 3:25-cv-458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025) (Haines, J.), *vacated as moot*, Dkt. No. 22 (Dec. 17, 2025); *Vasquez Mejia v. Noem*, 2025 WL 3546427 (W.D. Pa. Dec. 11, 2025) (Brown, C.).

In this case, Mr. Quevedo Rivera has resided in the U.S. since October 2024. He is not “seeking” to enter the country; he is already here. The government’s attempt to retroactively characterize him as an applicant for admission under §1225(b)(2) stretches the statutory language beyond plain language interpretation. Courts must give recognition to the plain meaning of statutory text, and nothing in §1225(b)(2) suggest Congress intended mandatory, no bond-eligible detention for individuals long present inside the United States. As such, the proper statutory provision governing Mr. Quevedo Rivera’s detention is 8 U.S.C. § 1226(a). Section 1226(a) applies to noncitizens arrested and detained pending a decision on removal and expressly authorizes release on bond or conditional parole. Individuals deemed as inadmissible for entry without inspection who are detained within the United States have for decades been processed under § 1226(a) and offered the opportunity to seek bond before an immigration judge. This longstanding practice reflects the correct interpretation of the statutory framework in the plain-text reading of the statute.

The Respondent’s reliance on *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, --- F.4th ---, 2026 WL 323330 (5th Cir. Feb. 6, 2026), is misplaced for two main reasons. Firstly, that decision represents a significant departure from longstanding lower court practice and implementation of the INA. The Fifth Circuit even notes in its opinion that “in most of these cases, the district court found in favor of the petitioner” and cited *Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ---, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025), which lists 350 decisions in favor of habeas petitioners. *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, --- F.4th ---, 2026 WL 323330, at 5 (5th Cir. Feb. 6, 2026). Secondly, the Fifth Circuit decision has no binding precedent on the Third Circuit Court, and this Court should give pause before adopting its reasoning. This Court should not depart from its prior, correctly decided

decisions. *See Da Silva-Siqueira v. Jamison*, Civil Action No. 26-1437, 2026 U.S. Dist. LEXIS 49710, at *9 (E.D. Pa March 11, 2026) (Costello, M.). Furthermore, other Judges in this District have also disagreed with the decision in *Buenrostro-Mendez*. *See Noicy v. Jamison*, Civil Action No. 26-1388, 2026 U.S. Dist. LEXIS 46773, at *6 (E.D. Pa. March 6, 2026) (Sanchez, J.) (“The Fifth Circuit’s decision is not binding on this Court. Indeed, courts in the Third Circuit continually reject the *Buenrostro-Mendez* majority decision. Because the decision is not persuasive, the Court will not adopt its reasoning.”).

Therefore, the Respondent’s interpretation of § 1225(b)(2) as applicable to Mr. Quevedo Rivera is in direct conflict with the statutory framework and traditional implementation. As such, detaining Mr. Quevedo Rivera under § 1225(b)(2) without eligibility for bond directly contravenes the INA. Accordingly, Mr. Quevedo Rivera is detained under § 1226(a) and is entitled to an individualized bond hearing before an Immigration Judge; however, he should instead be ordered immediately released in place of a bond hearing as discussed below.

II. Mr. Quevedo Rivera’s Detention Violates Substantive and Procedural Due Process, and Immediate Release is the Only Appropriate Remedy for a Due Process Violation

If the Court grants the Petition, it should order that Mr. Quevedo Rivera be released from detention, rather than a bond hearing. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas shall “dispose of the matter as law and justice require.”); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (finding “that the traditional function of the writ is to secure release from illegal custody”). The most appropriate remedy in a case like this, where Petitioner was previously released to the community and has been re-detained in violation of both the INA and due process, is release on recognizance without further conditions of release.

Dozens of courts across the country have agreed. *See, e.g., Kashranov v. Jamison*, No. 2:25-cv-05555-JDW, 2025 U.S. Dist. LEXIS 224644, at *20 (E.D. Pa. Nov. 14, 2025) (“Because the Government detained Mr. Kashranov without the bond hearing that Section 1226(a) and the Due Process Clause require, Mr. Kashranov should not now be in custody.”); *Kobilov v. O’Neill*, No. 26-cv-0058, 2026 WL 73475, at *3 (E.D. Pa. Jan. 8, 2026) (same, finding a bond hearing unnecessary where there was no record indication petitioner was a danger or flight risk); *Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13, 2026) (ordering immediate release because Petitioner was unlawfully detained without the opportunity for a bond hearing); *Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same); *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025) (same); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (same); *Mata Velasquez v. Kurzdorfer*, --- F. Supp. 3d ---, No. 25-cv-493, 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (ordering release and that petitioner could not be re-detained without a pre-deprivation hearing); *Feisal O. v. Noem*, No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (same); *Garcia Covarrubias v. Holston*, No. 2:25-cv-02445, 2026 WL 25970, at *4 (D. Nev. Jan. 5, 2026) (same); *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975, at *9 (W.D. Mich. Dec. 29, 2025) (same); *Ortega-Aguirre v. Noem*, No. 4:25-cv-04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025) (same); *Bumbila Iza v. Arnott*, No. 6:25-cv-3392, 2026 WL 67152, at *5 (W.D. Mo. Jan. 8, 2026) (same); *Gil v. Warden, Otay Mesa Det. Ctr.*, No. 3:25-cv-03279, 2025 WL 3675153, at *4 (S.D. Cal. Dec. 17, 2025) (same); *Sekhon v. Warden of Golden State Annex Det. Facility*, No. 1:25-cv-1692, 2026 WL 74151, at *4 (E.D. Cal. Jan. 9, 2026) (same).

Release is the only appropriate remedy for the constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Petitioner's arrest, which cannot be remedied by a post-deprivation hearing. *See Alfaro Herrera v. Baltazar*, No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released to the community and holding a bond hearing would prolong his unlawful detention, "[r]espondents' violations of Petitioner's rights are best remedied by ordering Petitioner's immediate release from immigration detention."); *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing). The government fails to acknowledge the import that Mr. Quevedo Rivera lacked notice and opportunity to be heard before he was detained. Thus, immediate release is the only appropriate remedy where detention violates Petitioner's substantive and procedural due process rights.

CONCLUSION

For the foregoing reasons, Mr. Quevedo Rivera respectfully requests that the Court grant his petition for a writ of habeas corpus and order Respondents to release him immediately as immediate release is the only appropriate remedy for his unlawful detention.

Date: March 18, 2026

Signed,

/s/ Marlee McCadden

Marlee McCadden, Esq. (PA ID No. 332430)

Clinic for Asylum, Refugee, and Emigrant Services

Villanova University Charles Widger School of Law

299 N. Spring Mill Road

Villanova, PA 19085

cares@law.villanova.edu

Phone: 610-519-7586

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Traverse to Respondents'

Answer and all attachments using the CM/ECF system.

Dated: March 18, 2026

/s/ Marlee McCadden
Marlee McCadden