

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

MANUEL SAUCEDO LEMUS,
Petitioner,

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v.

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CIVIL ACTION NO. 5:26-cv-00415

WARDEN, Rio Grande Processing Center; MIGUEL VERGARA, Field Office Director of Enforcement and Removal Operations, Harlingen Field Office, U.S. Immigration and Customs Enforcement (ICE); KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General; U.S. DEPARTMENT OF HOMELAND SECURITY; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

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Respondents,

**RESPONDENTS' RESPONSE TO PETITIONER'S WRIT OF HABEAS CORPUS,
MOTION FOR SUMMARY JUDGMENT, AND RESPONSE TO ORDER TO SHOW
CAUSE**

the Petition and serve it on Petitioner no later than March 25, 2026. Dkt. 4. Due to the high volume of habeas cases, the Government inadvertently missed the Court's Order and accordingly the response deadline. The missed deadline was not intentional. The Government apologizes to the Court for the oversight and is making efforts to avoid similar errors in the future. As such, the Government requests that the Court excuse Respondents for failing to meet this Court's deadline and accept this Response.

I. STATEMENT OF JURISDICTION

The Court has jurisdiction to review this habeas petition as it challenges the lawfulness of the Petitioner's detention. *See* 28 U.S.C. § 2241.

II. BACKGROUND

Petitioner is a native and citizen of Mexico. **Gov't Ex. 1-** Notice to Appear. On or around January 31, 2026, Petitioner was encountered by U.S. Border Patrol Agents, at or near Rio Grande Valley, Texas Border Patrol Sector. **Gov't Ex. 2-** I-213. Petitioner was determined to have illegally entered the United States without inspection. *Id.* Petitioner was taken into custody, and issued a Notice to Appear (NTA), charging him with removability pursuant to Immigration and Nationality Act ("INA") section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General; and INA Section 212(a)(7)(a)(I)(i), 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an alien who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulation issued by the Attorney General under section 211(a) of the Act. **Gov't Ex. 1.** Petitioner remains detained pending his removal proceedings and has an

individual hearing in his removal proceedings scheduled for May 14, 2026. **Gov't Ex. 3-** Automated Case Information.

III. LEGAL STANDARD

A. RULE 56

Generally, summary judgment is proper when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). If the moving party meets its burden of demonstrating the absence of a genuine factual dispute, the non-movant must then come forward with specific facts showing there is a genuine issue for trial. Fed. R. Civ. P. 56(c); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986). The non-movant must “go beyond the pleadings and by [the nonmovant's] own affidavits, or by the depositions, answers to interrogatories, and admissions on file, designate specific facts showing that there is a genuine issue for trial.” *Nola Spice Designs, LLC v. Haydel Enters., Inc.*, 783 F.3d 527, 536 (5th Cir. 2015). The non-movant's burden “will not be satisfied by ‘some metaphysical doubt as to the material facts, by conclusory allegations, by unsubstantiated assertions, or by only a scintilla of evidence.’” *Boudreaux v. Swift Transp. Co.*, 402 F.3d 536, 540 (5th Cir. 2005) (quoting *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc) (per curiam)).

IV. APPLICABLE LAW

In a petition for a writ of habeas corpus, the petitioner is challenging the legality of the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). When it comes to detention during removal proceedings, it is well-taken that the authority to detain is elemental to the authority to deport, as “[d]etention is a necessarily part of th[e] deportation procedure.” *Carlson v. Landon*, 342 U.S. 524, 238 (1952); *see Wong Wing v. United States*, 163 U.S. 228, 235

(1896) (“Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.”). As Supreme Court has stated in no unmistakable terms, “Detention during removal proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003).

V. ARGUMENT

A. PETITIONER IS SUBJECT TO MANDATORY DETENTION PURSUANT TO THE FIFTH CIRCUIT’S DECISION IN *BUENROSTRO V. BONDI*.

Petitioner’s habeas petition must further be denied because, based on recent Fifth Circuit precedent, he falls under the plain language of the mandatory detention provision in 8 U.S.C. § 1225(b)(2). In *Buenrostro*, the Fifth Circuit Court of Appeals held that aliens like Petitioner fall squarely within the ambit of § 1225(b)(2). *Buenrostro v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). The *Buenrostro* decision involved two consolidated cases. The aliens in *Buenrostro* had both entered the United States illegally. 2026 WL 323330 at *3. The aliens had evaded immigration enforcement officials for many years (decades in the case of one of the aliens). *Id.* When ICE encountered the aliens in 2025, they were served NTAs, charging them with violating 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* The aliens were then detained under 8 U.S.C. § 1225(b)(2). *Id.* The Fifth Circuit held that the Government correctly applied the mandatory detention provision of 8 U.S.C. § 1225(b)(2) to the aliens because they were “applicants for admission”; who were “seeking admission;” and, who were “not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2). *Id.* In so holding, the Fifth Circuit rejected the arguments that many district courts had relied upon in granting habeas relief.

First, the Fifth Circuit made clear that aliens who had been present illegally in the United States for many years remained “applicants for admission” who were “seeking admission.” 2026

WL 323330 at *4. The court explained that “[w]hen a person applies for something, they are necessarily seeking it.” *Id.* In so holding, the court rejected the reasoning that the phrase “seeking admission” in § 1225(b)(2)(A) uses the present tense and thus applies only to individuals “currently and actively seeking to be admitted to the United States when [they are] apprehended.” *Id.* at *3. The Fifth Circuit held that “the everyday meaning of the statute’s terms confirms that being an ‘applicant for admission’ is not a condition independent from ‘seeking admission.’” *Id.* at *4.

Second, the Fifth Circuit rejected the argument that § 1225(b)(2)’s mandatory detention provision rendered portions of § 1226 superfluous. Section 1226 still applies to aliens who have previously been admitted, such as visa holders whose visas have expired or those aliens who were erroneously admitted. 2026 WL 323330 at * 7. Similarly, the Laken Riley Act provisions of § 1226(c) still have effect, had effect even more so when it was passed: as the Executive at the time was declining to exercise its full enforcement authority under the INA. *Id.* Moreover, the *Buenrostro* court recognized that any redundancy in the statute “does not give this court a ‘license to rewrite ... another portion of the statute contrary to its text.’” *Id.* at *5 (quoting *Barton v. Barr*, 590 U.S. 222, 239 (2020)).

Finally, the *Buenrostro* court, recognizing that the plain language of the INA controlled the analysis and outcome, rejected arguments based on the Executive’s past interpretation and application of § 1225 and § 1226. 2026 WL 323330 at * 8. The court observed that the Government’s interpretation and application of § 1225(b)(2) “better honors” the intent of Congress’s amendments to the INA—the full enforcement of § 1225(b)(2)’s plain terms “put aliens seeking admission lawfully on equal footing with those who entered without inspection.” *Id.* at 9.

Here, in all material respects, Petitioner's case cannot be distinguished from *Buenrostro*. The Petitioner is an alien present in the United States who entered the country unlawfully and was not admitted or paroled after inspection. Ex. 1. As the Fifth Circuit held, an alien "present in the United States who has not been admitted," is by definition "an applicant for admission" who is "seeking admission." 8 U.S.C. § 1225(a)(1); § 1225(b)(2). Petitioner was illegally present in the United States: she was not entitled to be admitted into the country. Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that "the alien *shall* be detained" in the case of "an alien seeking admission" who "is not clearly and beyond a doubt entitled to be admitted") (emphasis added). Petitioner has now been ordered removed from the United States, and has appealed the order. Ex. 2.

B. PETITIONER'S CUSTODY DOES NOT CONSTITUTE A DUE PROCESS VIOLATION.

Failing to show unlawful detention, the Petition also fails to demonstrate any due process violation. Petitioners argue that his detention violates the Constitution. Dkt. 1 at ¶¶ 15, 59-69, and Count II. Substantive due process protects "only 'those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.'" *Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997)). To be sure, individuals unlawfully present in the United States do possess due process rights but those rights exist within the bounds set by rule and statute, as "the through line of history is recognition of the Government's sovereign authority to set the terms governing the admission and exclusion of noncitizens." *Dep't of State v. Muñoz*, 602 U.S. 899, 911-12, 144 S. Ct. 1812, 1823 (2024). Regarding the authority to detain individuals during the pendency of removal proceedings, the Supreme Court has spoken directly on this issue and stated that detention for the limited period of removal proceedings does not violate substantive due process. *Demore v. Hyung Joon Kim*, 538 U.S. 510, 523, (2003) (acknowledging "this Court's longstanding view that the Government may

constitutionally detain deportable aliens during the limited period necessary for their removal proceedings”). Accordingly, any substantive due process claim challenging Petitioner’s detention pending removal proceedings fails. *See also Sanchez v. Smith*, No. 4:25-CV-05384, 2025 WL 3687914, at *2 (S.D. Tex. Dec. 19, 2025); *Zuniga v. Lyons*, No. 1:25-CV-221-H, 2025 WL 3755126, at *8 (N.D. Tex. Dec. 29, 2025) (holding that “the notion that substantive due process requires a bond hearing is untenable”).

Similarly, any procedural due process claim fails. Procedural due process protects an individual’s right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridge*, 424 U.S. 319, 332-333 (1976). In the instant case, an examining immigration official denied Petitioner admission into the United States, explained the basis for charging Petitioner with being subject to removal, and ordered Petitioner to appear in immigration court. Dkt. 1-2 at Ex. B. “In short, the Government provided the process to which Petitioner was due under §1225(b)(2)(A). As such, and as pleaded, the claim with respect to violation of due process fails.” *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331, at *7 (S.D. Tex. Nov. 13, 2025) (Eskridge, J.). Section 1225(b)(2) does not require Petitioner to have a bond hearing and the Supreme Court has recognized the constitutionality of detaining individuals during the pendency of removal proceedings. *Denmore v. Kim*, 538 U.S. 510, 523 (2003); *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (an applicant for admission has “only those rights regarding admission that Congress has provided by statute”). Thus, there can be no procedural due process violation.

C. PETITIONER APPEARS TO BE A MEMBER OF THE *MALDONADO BAUTISTA* CLASS. THE CLASS MEMBERSHIP IS IRRELEVANT GIVEN THE RULING IN *BUENROSTRO*.

Petitioners appear to be a member of the *Maldonado Bautista* class. However, this class membership is irrelevant. The class action declaratory judgment in *Maldonado Bautista v.*

Santacruz, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025), does not change any analysis. As explained above, the *Buenrostro* court has announced the law as it relates to the proper application of 8 U.S.C. § 1225(b)(2) in this circuit. The holding in *Bautista*, which adopted the arguments rejected in *Buenrostro*, is thus at odds with controlling precedent. The Fifth Circuit's decision in *Buenrostro* now controls the Court's analysis of § 1225(b)(2)'s mandatory detention provision and the ruling in *Maldonado Bautista* has no weight. Indeed, even the law of the case doctrine (assuming arguendo it ever applied or had relevance here) must give way to intervening changes in the law. *See Morrow v. Dillard*, 580 F.2d 1284, 1290 (5th Cir. 1978).

Finally, as of March 31, 2026, the Ninth Circuit Court of Appeals has stayed the District Court's ruling in *Bautista*.

D. PETITIONER IS NOT ENTITLED TO ATTORNEY'S FEES AND COSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT.

The Equal Access to Justice Act does not authorize attorney's fees for successful 28 U.S.C. § 2241 motions. *Barco v. Witte*, 65 F.4th 782, 785 (5th Cir. 2023). Petitioner is not entitled to such relief.

CONCLUSION

For the foregoing reasons, the Court should deny Petitioner's request for habeas relief and grant the instant motion.

Dated: April 28, 2026

Respectfully submitted,

JOHN G.E. MARCK

Acting United States Attorney
Southern District of Texas

/s/ Hilda M. Garcia Concepcion

Hilda M. Garcia Concepcion

Assistant United States Attorney

Federal Bar No. 3399716

1000 Louisiana, Suite 2300

Houston, Texas 77002

Telephone: (713) 567-9529

Fax: (713) 718-3303

Email: hilda.garcia.concepcion@usdoj.gov

Attorneys for Federal Respondents

CERTIFICATE OF SERVICE

I certify that, on April 28, 2026, the foregoing was filed and served on all attorneys of record via the District's ECF system.

/s/ Hilda M. Garcia Concepcion

Hilda M. Garcia Concepcion

Assistant United States Attorney