

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

Jorge Galvan-Bastard
(Year of Birth 1970 – A 
PETITIONER

V.

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

CIVIL ACTION NO. 5:26-cv-426

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

Petitioner JORGE GALVAN-BASTARD (“Petitioner”), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and for declaratory and injunctive relief, and alleges as follows:

I. INTRODUCTION

1. This action challenges Petitioner’s ongoing civil immigration detention at the Webb County Detention Center in Laredo, Texas, without any individualized custody redetermination, under 8 U.S.C. § 1225(b)(2).
2. Petitioner is a long-time resident of the United States who entered without inspection in or about August 2006 and has now resided here for approximately twenty years. He has no criminal convictions and has never been deported, removed, or ordered removed.
3. Petitioner is a survivor of domestic violence. He has received a prima facie approval on a VAWA Form I-360 self-petition and is actively pursuing Cancellation of Removal for certain nonpermanent residents (Form EOIR-42B) in ongoing INA § 240 removal proceedings.

4. Despite his decades-long residence, deep family and community ties, and complete lack of criminal history, ICE officers arrested Petitioner in the interior on January 8, 2026, without a warrant. Since that date he has been held in what ICE and EOIR characterize as “mandatory” detention under 8 U.S.C. § 1225(b)(2), with no opportunity for a bond or custody redetermination hearing.

5. The Fifth Circuit’s decision in *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), addressed only the statutory interaction between 8 U.S.C. §§ 1225(b)(2) and 1226(a). *Buenrostro* expressly left open as-applied constitutional due process challenges to detention under § 1225(b)(2). See *id.* at *10 (remanding for “further proceedings” and not reaching Fifth Amendment issues).

6. Since *Buenrostro*, multiple district courts in this Circuit, including this Division, have held that as-applied procedural due process challenges to interior § 1225(b)(2) detention remain viable and have granted habeas relief in materially similar circumstances. See, e.g., *Bonilla Chicas v. Warden*, No. 5:26-CV-131, Dkt. No. 11 (S.D. Tex. Feb. 20, 2026); *Lopez-Mejia v. Warden*, No. 5:26-CV-160, Dkt. No. 13 (S.D. Tex. Feb. 23, 2026); *Marceau v. Noem*, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026); *Hassen v. Noem*, No. 3:26-CV-48-DB, Dkt. No. 8 at 4 n.1 (W.D. Tex. Feb. 9, 2026); *Azua-Zuniga v. Bondi*, 2026 WL 482453, at *3 (W.D. Tex. Feb. 20, 2026), among many others.

7. As applied to Petitioner, prolonged, categorical, no-bond detention under § 1225(b)(2) without a hearing violates the Due Process Clause of the Fifth Amendment. Petitioner has an especially strong liberty interest in remaining free from confinement given his twenty-year presence, prima facie VAWA eligibility, and pending 42B application.

8. Further, Petitioner’s arrest violated DHS’s own binding regulation governing warrantless at-large civil arrests, 8 C.F.R. § 287.8(c)(2)(i), rendering his arrest and resulting detention unlawful under the Administrative Procedure Act and the *Accardi* doctrine.

9. Finally, Petitioner is a member of the nationwide “Bond Eligible Class” in *Maldonado-Bautista v. Santacruz*, No. 5:25-CV-1873-SSS-BFM (C.D. Cal.), and preserves his statutory claim that, as a class member, he is detained under INA § 236(a), not § 235(b)(2), and is therefore statutorily entitled to seek release on bond and to an individualized bond hearing, notwithstanding interim stays in that litigation and *Buenrostro*’s statutory holding.

II. JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in custody under color of the authority of the United States and alleges that such custody violates the Constitution and laws of the United States. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

11. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the INA, the APA, and the Fifth Amendment's Due Process Clause. The Suspension Clause further supports jurisdiction over Petitioner's habeas claims.

12. Petitioner does not challenge a final order of removal. He challenges only the legality and constitutionality of his continued detention. The jurisdiction-stripping provisions of 8 U.S.C. § 1252(a)(5), (b)(9), and (g) therefore do not apply. See *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000) (detention orders reviewable under § 2241); *Nielsen v. Preap*, 586 U.S. 392, 402 (2019) (distinguishing challenges to detention from challenges to removal).

13. Venue is proper in this Court because Petitioner is detained at the Webb County Detention Center, within the Laredo Division of the Southern District of Texas, and his immediate custodian and the relevant ICE and DHS officials responsible for his detention work in or direct operations within this District.

III. PARTIES

14. Petitioner JORGE GALVAN-BASTARD (A ) is a native and citizen of Mexico who has continuously resided in the United States since about August 2006. He is detained at the Webb County Detention Center, Laredo, Texas.

15. Respondent Warden of Webb County Detention Center is Petitioner's immediate custodian and has day-to-day control over Petitioner's detention. He is sued in his official capacity.

16. Respondent Field Office Director, U.S. Immigration and Customs Enforcement, San Antonio Field Office, is responsible for Petitioner's civil immigration custody and detention decisions within the region. He is sued in his official capacity.

17. Respondent U.S. Immigration and Customs Enforcement (ICE) is the component of DHS with primary responsibility for civil immigration enforcement and detention, including Petitioner's arrest and current detention. ICE is sued in its official capacity.

18. Respondent the Secretary of the U.S. Department of Homeland Security has ultimate responsibility for the administration and enforcement of the immigration laws.

19. Respondent PAM BONDI is the Attorney General of the United States and heads the Department of Justice, which includes EOIR and the BIA. She is sued in her official capacity.

IV. FACTUAL BACKGROUND

20. Petitioner entered the United States without inspection in or about August 2006 and has resided continuously in the United States since that time.

21. Petitioner has never been convicted of any criminal offense. He has never been arrested by immigration authorities prior to the events described herein and has never been previously deported, removed, or ordered removed.

22. Petitioner is a survivor of domestic abuse. He filed a Form I-360 self-petition under VAWA. USCIS has issued a prima facie determination approving his I-360, recognizing that he has presented a credible case for VAWA relief.

23. In his removal proceedings, Petitioner has applied for relief by filing Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents, including eligibility for VAWA/special cancellation. He alleges that he satisfies the statutory requirements of at least ten years of continuous physical presence, good moral character, and that his removal would result in exceptional and extremely unusual hardship to his U.S. citizen qualifying relatives.

24. On January 8, 2026, ICE officers arrested Petitioner in the interior of the United States without a warrant. Petitioner had been living at a known address with his family for many years, in open view, and had no history of absconding, criminal conduct, or failure to appear in any proceeding.

25. DHS regulations governing warrantless at-large civil immigration arrests, 8 C.F.R. § 287.8(c)(2)(i), permit such an arrest only when an officer has reason to believe that a noncitizen is in violation of immigration law “and is likely to escape before a warrant can be obtained for his arrest.” No such facts existed in Petitioner’s case.

26. After the January 8, 2026 arrest, DHS initiated removal proceedings under INA § 240 by serving Petitioner with a Notice to Appear and placing his case before the Immigration Court.

27. Consistent with DHS’s 2025 “Interim Guidance Regarding Detention Authority for Applicants for Admission” and the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) (now vacated under the APA in *Maldonado-Bautista v. Santacruz*, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026)), ICE and EOIR have classified Petitioner—solely by virtue of his initial EWI—as an “applicant for admission” detained under 8 U.S.C. § 1225(b)(2), and have refused to treat him as detained under 8 U.S.C. § 1226(a).

28. On that basis, Immigration Judges have declined jurisdiction to consider bond, and Petitioner has been denied any individualized custody redetermination. He has never received a hearing at which the government was required to justify his detention by reference to dangerousness or flight risk, nor has any adjudicator considered less restrictive alternatives.

29. Petitioner has strong family and community ties, no criminal history, an approved prima facie VAWA petition, and a pending cancellation-of-removal application. He has appeared in his immigration proceedings and has every incentive to continue doing so.

30. Petitioner meets the definition of the “Bond Eligible Class” in *Maldonado-Bautista v. Santacruz*: he (a) entered without inspection, (b) was not apprehended immediately at

the time and place of entry, (c) is in § 240 removal proceedings, (d) is not detained under § 1226(c) for specified crimes nor under § 1231 post-final removal order provisions, and (e) is detained in the interior.

31. In *Maldonado-Bautista*, the Central District of California held that class members like Petitioner are detained under 8 U.S.C. § 1226(a), that DHS's 2025 "applicants for admission" policy was unlawful, and that class members are statutorily entitled to bond and custody redetermination hearings. See *Maldonado-Bautista*, 2025 WL 3288403, at *9; see also *Maldonado-Bautista*, Order Granting Motion to Enforce Judgment (Feb. 18, 2026) (vacating *Yajure Hurtado* under the APA and calling mandatory interior detention "an astounding overreach").

32. While portions of the *Maldonado-Bautista* relief are currently stayed, Petitioner's membership in the Bond Eligible Class and his claim that he is detained under § 1226(a), not § 1225(b)(2), remain preserved for any ultimate higher-court or class-wide resolution.

V. CAUSES OF ACTION

COUNT I - VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT (As-Applied Challenge to Mandatory Detention Under 8 U.S.C. § 1225(b)(2))

33. Petitioner incorporates by reference paragraphs 1 through 32.

34. The Due Process Clause of the Fifth Amendment applies to all persons within the United States, including noncitizens, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693.

35. Civil immigration detention is constitutionally permissible only when it serves legitimate, nonpunitive regulatory purposes—ensuring appearance at proceedings and protecting the community—and only for so long as detention reasonably relates to those purposes. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 527–31 (2003).

36. *Buenrostro-Mendez v. Bondi* held that, as a matter of statutory interpretation, 8 U.S.C. § 1225(b)(2)(A) applies to noncitizens who entered without inspection and are later encountered in the interior, and that § 1225(b)(2) does not itself provide for bond hearings. 2026 WL 323330, at *4, *8. *Buenrostro-Mendez* did not adjudicate any Fifth Amendment due process claim and did not decide whether mandatory detention under § 1225(b)(2) is constitutional as applied to long-time residents like Petitioner. *Id.* at *9–10.

37. Numerous district courts in this Circuit, including in the Southern and Western Districts of Texas, have held post-*Buenrostro* that as-applied due process challenges to § 1225(b)(2) detention remain fully cognizable and have ordered release or bond-hearing relief for similarly situated petitioners. See, e.g., *Bonilla Chicas*, No. 5:26-CV-131, Dkt. No. 11 at 21–25 (S.D. Tex. Feb. 20, 2026); *Lopez-Mejia*, No. 5:26-CV-160, Dkt. No. 13 at 2–3 (S.D. Tex. Feb. 23, 2026); *Marceau*, 2026 WL 368953, at *2; *Hassen*, No. 3:26-CV-48-DB, Dkt. No. 8 at 4 n.1; *Azua-Zuniga*, 2026 WL 482453, at *3; *Dieng v. Noem*, No. SA-26-CV-223-XR, Dkt. No. 7 (W.D. Tex. Feb. 25, 2026); *Soriano Altamirano*

v. Lyons, No. SA-26-CV-607-XR, Dkt. No. 11 (W.D. Tex. Feb. 26, 2026); *Sosnava Rodriguez v. Ortega*, No. 1:26-CV-273-RP, Dkt. No. 14 (W.D. Tex. Feb. 25, 2026).

38. Petitioner’s roughly twenty years of residence in the United States, his long-standing location in Texas, his prima facie approved VAWA petition, and his pending EOIR-42B application all give rise to a strong liberty interest in remaining free from detention. See *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685–87 (W.D. Tex. 2025); *Bonilla Chicas*, Dkt. No. 11 at 13–14.

39. Under *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976), due process requires balancing: (1) Petitioner’s private interest in freedom from detention (which is “perhaps the most elemental of liberty interests,” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)); (2) the risk of erroneous deprivation without additional safeguards and the probable value of such safeguards; and (3) the Government’s interests and administrative burdens.

40. All three *Mathews* factors weigh heavily in Petitioner’s favor, as found repeatedly in similar cases:

- a. Private interest. Petitioner’s interest in bodily liberty and in maintaining his family, work, and community life is weighty. See *Lopez-Arevelo*, 801 F. Supp. 3d at 685–87; *Bonilla Chicas*, Dkt. No. 11 at 21–22; *Sosnava Rodriguez*, Dkt. No. 14 at 4–5.
- b. Risk of erroneous deprivation. Absent any individualized custody hearing, there is a high risk that a non-dangerous, non-flight-risk long-time resident will be detained unnecessarily. Courts have repeatedly found this risk “exceedingly high” in the re-detention context. See *Bonilla Chicas*, Dkt. No. 11 at 22–23; *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *9–10 (W.D. Tex. Oct. 21, 2025); *Dieng*, Dkt. No. 7 at 23–24; *Soriano Altamirano*, Dkt. No. 11 at 22–24.
- c. Government’s interest. While the Government has an interest in ensuring appearance and protecting the public, those interests are already vindicated by the fact that, for decades prior to the 2025 *Hurtado/Lyons* policy, interior EWI respondents were detained (if at all) under § 1226(a) with bond, and more recently were released on their own recognizance or parole after individualized determinations that they were not dangers or flight risks. See *Demore*, 538 U.S. at 528–30; *Lopez-Arevelo*, 801 F. Supp. 3d at 687; *Canizalez-Arias v. Bondi*, No. SA-26-CV-451-XR, Dkt. No. 9 at 24 (W.D. Tex. Feb. 26, 2026); *Dieng*, Dkt. No. 7 at 24–25.

41. As applied to Petitioner, categorical, no-bond detention under § 1225(b)(2) without any individualized hearing before a neutral adjudicator violates the Due Process Clause. See *Bonilla Chicas*, Dkt. No. 11 at 21–25; *Lopez-Mejia*, Dkt. No. 13 at 2–3; *Sosnava Rodriguez*, Dkt. No. 14 at 5–7.

COUNT II– VIOLATION OF THE APA AND ACCARDI DOCTRINE (Unlawful Warrantless Arrest and Unlawful Reclassification/Detention Policy)

42. Petitioner incorporates paragraphs 1 through 41.

43. Under the *Accardi* doctrine, agencies must follow their own binding regulations, and agency actions taken in violation of such regulations are unlawful and must be set aside. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *United States v. Caceres*, 440 U.S. 741, 751–52, 759–60 (1979).

44. The Administrative Procedure Act provides that a reviewing court shall hold unlawful and set aside agency action that is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, or taken in excess of statutory authority. 5 U.S.C. § 706(2)(A), (C).

45. DHS’s regulation at 8 C.F.R. § 287.8(c)(2)(i) authorizes a warrantless, at-large civil arrest only when the immigration officer has reason to believe that a noncitizen is in violation of the immigration laws and “is likely to escape before a warrant can be obtained for his arrest.”

46. Petitioner had lived peacefully at a known address for approximately twenty years with U.S. citizen family members and no criminal record. There was no reasonable basis to believe he was “likely to escape” before a warrant could be obtained, and Respondents do not contend otherwise.

47. ICE’s choice to effect a warrantless interior arrest on January 8, 2026, in the absence of the “likely to escape” predicate in § 287.8(c)(2)(i), violated that regulation, was arbitrary and capricious, and exceeded DHS’s lawful authority.

48. Petitioner’s subsequent detention flows directly from, and is tainted by, this unlawful warrantless arrest. Under the APA and *Accardi* doctrine, this Court should declare the arrest and resultant detention unlawful and order that Petitioner be released or, at minimum, that his custody be promptly re-evaluated through lawful procedures.

49. In addition to violating 8 C.F.R. § 287.8(c)(2)(i), Respondents have also acted unlawfully under the APA and *Accardi* by reclassifying Petitioner and similarly situated long-term interior residents as detained under 8 U.S.C. § 1225(b)(2), rather than 8 U.S.C. § 1226(a).

50. For nearly three decades after IIRIRA, DHS and EOIR uniformly treated noncitizens like Petitioner—long-term interior residents who entered without inspection and were later placed in § 240 removal proceedings—as detained under § 1226(a), not § 1225(b). During that entire period, such individuals were treated as bond-eligible and accorded the regulatory right to seek release on bond and to an individualized custody redetermination by an Immigration Judge under 8 C.F.R. §§ 1003.19 and 1236.1.

51. Without notice-and-comment rulemaking or any acknowledgment that they were repudiating this settled, nationwide practice, DHS abruptly reversed course in July 2025 through the Lyons “Interim Guidance Regarding Detention Authority for Applicants for Admission,” and the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Those actions newly reclassified long-term interior residents who entered without inspection—like Petitioner—as “applicants for admission” detained under § 1225(b)(2), instead of § 1226(a), solely by internal guidance and adjudicatory fiat.

52. This reclassification had a sweeping substantive effect: it stripped a large, defined class of noncitizens who had long been treated as bond-eligible under § 1226(a) of their regulatory rights to request custody redetermination and bond under 8 C.F.R. §§ 1003.19 and 1236.1, and subjected them instead to categorical, no-bond “mandatory detention” as purported applicants for admission. As applied to Petitioner, the Lyons/*Hurtado* framework newly branded him an “applicant for admission” for detention purposes and purported to eliminate bond authority that had existed for decades.

53. Under the APA, a policy of this scope and effect is a substantive rule that cannot lawfully be adopted through informal memoranda and case-by-case decisions without notice-and-comment rulemaking. See 5 U.S.C. §§ 553, 706(2). The sudden reclassification of long-term interior residents as § 1225(b)(2) detainees, and as “applicants for admission” for detention purposes, is therefore arbitrary, capricious, and not in accordance with law.

54. Moreover, to the extent DHS and EOIR purported to implement this reclassification by disregarding or silently overriding existing detention and bond regulations that presuppose § 1226(a) custody for noncitizens in Petitioner’s posture, they violated the *Accardi* doctrine. Agencies may not evade binding regulations—such as 8 C.F.R. §§ 1003.19 and 1236.1—through internal guidance or adjudicatory decisions that effectively nullify regulatory rights to seek bond and custody redetermination.

55. By abandoning three decades of treating long-term interior residents like Petitioner as detained under § 1226(a), and newly treating them as § 1225(b)(2) “applicants for admission” pursuant to the Lyons memo and *Hurtado*, without lawful rulemaking and in derogation of existing regulations, Respondents have acted contrary to the APA and *Accardi*. Petitioner’s current detention under this reclassification regime is ultra vires and must be set aside.

COUNT III - PRESERVATION OF STATUTORY CLAIMS UNDER *MALDONADO-BAUTISTA* v. *SANTACRUZ*

56. Petitioner incorporates paragraphs 1 through 55.

57. Petitioner is a member of the “Bond Eligible Class” certified in *Maldonado-Bautista v. Santacruz*, No. 5:25-CV-1873-SSS-BFM (C.D. Cal.). Like the class members described there, he entered without inspection, was not apprehended at or near entry, is in § 240 proceedings, is not in § 1226(c) criminal mandatory detention, and is not detained post-final order under § 1231.

58. The *Maldonado-Bautista* court held that Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and that the July 8, 2025 DHS “applicant for admission” policy and *Hurtado* were unlawful under the INA and APA. See *Maldonado-Bautista*, 2025 WL 3288403, at *9; 2026 WL 468284, at *10 (C.D. Cal. Feb. 18, 2026).

59. While the Ninth Circuit has stayed aspects of the *Maldonado-Bautista* remedial orders as of March 6, 2026, Petitioner expressly preserves his statutory class-based claim to § 1226(a) detention, including his entitlement to seek release on bond and to a bond

hearing before an Immigration Judge, for purposes of any ultimate class-wide or appellate resolution.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully asks this Court to:

1. Assume jurisdiction over this Petition under 28 U.S.C. §§ 2241 and 1331;
2. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from immigration custody under reasonable conditions of supervision;
3. In the alternative, order Respondents to provide Petitioner, by a date certain, with a prompt individualized custody redetermination hearing before an Immigration Judge at which:
 - a. The Government bears the burden of justifying any continued detention by clear and convincing evidence that Petitioner is a danger to the community or a flight risk that cannot be mitigated by less restrictive conditions;
 - b. The Immigration Judge considers all reasonable alternative conditions of release short of detention; and
 - c. Any monetary bond is set in an amount Petitioner can reasonably afford, based on his and his family's financial circumstances;
4. Declare that Respondents' warrantless arrest of Petitioner on January 8, 2026, violated 8 C.F.R. § 287.8(c)(2)(i) and was unlawful under the APA and Accardi doctrine, and that Petitioner's resulting detention is arbitrary, capricious, and not in accordance with law;
5. Declare that, as applied to Petitioner, prolonged mandatory detention under 8 U.S.C. § 1225(b)(2) without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment;
6. Recognize Petitioner's membership in the Bond Eligible Class in *Maldonado-Bautista v. Santacruz* and preserve his statutory claim that he is detained under 8 U.S.C. § 1226(a), not § 1225(b)(2);
7. Award Petitioner his costs and, to the extent available in this § 2241 proceeding, reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, or other applicable law; and
8. 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, Jorge Galvan-Bastard, 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 18, 2026

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

CERTIFICATE OF SERVICE

I hereby certify that on this 18th 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