UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

RUDY ANTONIO CAMACHO

Petitioner

-against-

MARKWAYNE MULLIN, IN HIS OFFICIAL CAPACITY, SECRETARY OF U.S. DEPARTMENT OF HOMELAND SECURITY;

TODD BLANCHE, IN HIS OFFICIAL CAPACITY, ACTING U.S. ATTORNEY GENERAL;

TODD LYONS, IN HIS OFFICIAL CAPACITY, ACTING DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT

WARDEN, IN HIS OFFICIAL CAPACITY, EDEN DETENTION CENTER

ROBERT CERNA, IN HIS OFFICIAL CAPACITY ICE FIELD OFFICE DIRECTOR DETENTION AND REMOVAL

Respondents.

PETITION FOR
WRIT OF HABEAS CORPUS

Case No: 1:26-cv-169

INTRODUCTION

1. Rudy Antonio Camacho-Solorzano (hereinafter "Petitioner") is a (56)-year-old citizen and native of Guatemala.
2. Petitioner, Mr. Camacho-Solorzano, first entered the United States without inspection on or about July 20, 1991, near Douglas, Arizona. *See* Exhibit 1 - Notice to Appear.
3. On October 21, 1993, his application for asylum and withholding of removal was received by the government. *See* Exhibit 2 – Form I-589.
4. The petitioner also applied for employment authorization. The application was approved, and Petitioner was granted employment authorization valid from August 25, 1993, through August 24, 1994. *See* Exhibit 3 - Application for Employment Authorization.
5. Mr. Camacho-Solorzano was served with a Notice to Appear on March 16, 1999 charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i);INA 212(a)(6)(A)(i). *See* Exhibit 1 - Notice to Appear.
6. On May 22, 2002, an Immigration Judge denied Petitioner's applications for asylum, withholding of removal, and protection under the Convention Against Torture, but granted him the privilege of voluntary departure. The Immigration Judge ordered Petitioner to depart the United States on or before July 21, 2002, and to post a $500 voluntary departure bond by May 29, 2002. *See* Exhibit 4 – Oral Decision of the Immigration Judge.
7. On June 5, 2002, Petitioner appealed the Immigration Judge's decision to the Board of Immigration Appeals ("BIA"). On September 17, 2003, the BIA dismissed the appeal but granted Petitioner until October 17, 2003, to voluntarily depart the United States. *See* Exhibit 5 - Board of Immigration Appeals Docket.

8. On February 1, 2005, the United States Court of Appeals for the Ninth Circuit issued a mandate denying Petitioner's petition for review. That same day, the Department of Homeland Security issued a Notice of Immigration Bond Breach. *See* Exhibit 6 - Notice of Immigration Bond Breach.
9. On March 23, 2006, Petitioner was arrested without incident as an alleged absconder from immigration proceedings at his place of employment in Grand Prairie, TX. He was subsequently processed at the Dallas Field Office. His personal documents, including EAD, TXDL, CADL and SSN were placed in file. *See* Exhibit 7 - Record of Deportable/Inadmissible Alien.
10. On April 6, 2006, Petitioner was subject to a final order of removal and was subsequently removed to Guatemala. *See* Exhibit 8 - Notice of Intent/Decision to Reinstate Prior Order.
11. Petitioner later re-entered the United States without inspection on or about January 21, 2013 near Sasabe, Arizona. Since that time, Petitioner has remained physically present in the United States, has complied with immigration requirements and has established his life in this country. *See* Exhibit 9 - Form I-217, "Information for Travel Document or Passport.
12. He was served with a Notice and Order of Expedited Removal on February 5, 2013, finding him inadmissible under section 212(a) of the Immigration and Nationality Act. *See* Exhibit 10 - Notice to Alien Ordered Removed/Departure Verification.
13. On February 22, 2013, the Department of Homeland Security initiated the reinstatement of the prior removal order pursuant to Section 241(a)(5) of the Immigration and Nationality Act. *See* Exhibit 8 - Notice of Intent/Decision to Reinstate Prior Order.

14. Petitioner was initially scheduled for a Reasonable Fear Interview on April 19, 2013 at the Florence Detention Center in Florence, Arizona. Although the interview was initiated, the case was ultimately referred for further processing. *See* Exhibit 11 - Declaration of Sworn Statement. Reasonable Fear Questions and Answers.

15. On June 3, 2013, U.S. Immigration and Customs Enforcement ("ICE") issued an Form I-220B Order of Supervision, releasing Petitioner under supervision. Petitioner was instructed to report in person on June 25, 2013, at the ICE Field Office located at 8101 N. Stemmons Freeway, Dallas, Texas. *See* Exhibit 12 – Order of Supervision.

16. Petitioner is married and is the father of (4) children, including (2) United States Citizen children. His family depends on him for both emotional and financial support.

17. Petitioner was later scheduled for a Reasonable Fear Interview on June 5, 2019 at 8:00 AM at the Houston Asylum Office. Petitioner failed to appear for the interview, and the case was administratively closed on that same date. See Exhibit 13 - Reasonable Fear Interview Notice & Memorandum Of Case Closure.

18. On August 24, 2020, Petitioner subsequently appeared for a Reasonable Fear Interview in Houston, Texas, at which a negative reasonable fear determination was issued. See Exhibit 14 - Record of Negative Reasonable Fear Worksheet.

19. On March 18, 2025 the Department of Homeland Security initiated removal proceedings under 8 U.S.C. § 1229a. *See* Exhibit 15 - EOIR Case Portal.

20. Petitioner has also sought lawful immigration relief that remains pending before U.S. Citizenship and Immigration Services ("USCIS"). Specifically, on July 2, 2025, Petitioner filed a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, as a VAWA self-petitioning parent of a United States citizen son or daughter. The petition

was sent via FedEx Express to the USCIS lockbox in Lincoln, Nebraska. *See* Exhibit 16 - Proof of Delivery.

21. Since 2013, Petitioner has consistently complied with his reporting obligations to U.S. Immigration and Customs Enforcement ("ICE"), appearing at all scheduled check-ins as required. On February 23, 2026, Petitioner appeared for a scheduled appointment with ICE in Dallas, Texas, at approximately 1:00 p.m. Upon his arrival, the ICE officer informed Petitioner that he would be taken into custody. The officer did not provide Petitioner with any explanation for the detention other than stating that Petitioner's immigration court hearing would be advanced. At no time did ICE provide Petitioner with a meaningful explanation for the basis of his detention, nor did officers present Petitioner with a warrant or other order authorizing his arrest. Petitioner was thereafter taken into ICE custody.

22. On April 7, 2026, the Immigration Judge ordered Petitioner removed. Petitioner's deadline to file an appeal is May 7, 2026, and Petitioner intends to timely appeal that decision. *See* Exhibit 17 – EOIR Automated Case Information.

23. Petitioner remains detained at the Eden Detention Center in Eden Detention Center in Eden, Texas.

24. Without relief from this court, Petitioner faces continued detention without the possibility of an individualized bond hearing.

25. Petitioner is a class member in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873SSS-BFM (C.D. Cal.). In Maldonado Bautista the court certified the Bond Eligible Class, defined as: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will

not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Petitioner is a noncitizen without lawful status detained at the Eden Detention Center who (1) entered the United States without inspection, (2) was not apprehended upon arrival, and (3) is not subject to mandatory detention pursuant to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Accordingly, as a member of the Bond Eligible Class, Petitioner is entitled to the application of the law as stated in the *Maldonado Bautista* orders.

26. Petitioner preserves the statutory argument rejected in *Buenrostro* for purposes of further review. The question of whether detention authority arises under INA § 235, 8 U.S.C. § 1225, or INA § 236, 8 U.S.C. § 1226, for noncitizens already present in the United States remains the subject of ongoing litigation in multiple courts of appeals. Because the Fifth Circuit sitting en banc or the Supreme Court may revisit or reject the panel's conclusion in *Buenrostro*, Petitioner raises this statutory claim to preserve the issue and ensure eligibility for relief should the governing law change.

27. On July 8, 2025, DHS issued a new policy memorandum to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (Hereinafter "DOJ"), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim

guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." Memorandum, U.S. Immigration & Customs Enf't, Interim Guidance Regarding Detention Authority for Applications for Admission (July 8, 2025), available at AILA Doc. No. 25071607, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

28. Through his pending application, Petitioner will have the opportunity to become a lawful permanent resident, and his removal is not reasonably foreseeable due to a pending application for relief.

29. Petitioner's detention pursuant to 8 U.S.C. § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who was apprehended in the interior of the U.S., should not be considered an "applicant for admission" who is "seeking admission." Rather, he should continue to be detained pursuant to 8 U.S.C. § 1226(a), which was DHS's initial determination for Petitioner and allows for release on conditional parole of bond.

30. Through this petition, Petitioner asks this Court to find that Respondents have unlawfully detained him under 8 U.S.C.§ 1225(b)(2)(A), that his detention is appropriate under 8 U.S.C. § 1226(a).

CUSTODY

31. Petitioner is in the physical custody of Defendant-Respondent ROBERT CERNA, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement ("ICE"), DHS, and Respondent WARDEN, EDEN DETENTION CENTER. At the time of the filing of this petition, Plaintiff-Petitioner is detained at the EDEN DETENTION

CENTER in Eden, TX. The EDEN DETENTION CENTER is run by DHS to detain noncitizens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

32. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. § 1131 (federal question), 28 USC § 1346 (original jurisdiction), 5 USC §702 (waiver of sovereign immunity), 28 USC 2241 (habeas corpus jurisdiction), and Article I, § 9, cl. 2 of the United States Constitution(Suspension Clause).

VENUE

33. Venue is proper because Petitioner and his immediate family reside in Texas and he now remains detained at the EDEN DETENTION CENTER, 704 E Broadway St, Eden, TX 76837. *See* ICE Detainee Locator; *see also* generally *Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004) (generally, "[w]henever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States," he must file the petition in the district of confinement and name his immediate custodian as the respondent), *see also* *Braden v. 30th Judicial Circuit of Kentucky*, 410 U.S. 484,493-500 (1973), venue lies in the United States District Court for the Northern District of Texas, the judicial district in which petitioner is currently detained.

PARTIES

34. Petitioner is a citizen and national of Guatemala. He is currently in ICE custody and detained at the EDEN DETENTION CENTER, 704 E Broadway St, Eden, TX 76837.
35. Respondent Markwayne MULLIN is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration

and Nationality Act and oversees ICE, which is responsible for Petitioner's detention. Respondent has ultimate custodial authority over Petitioner. In this capacity, he is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of Texas; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. He is sued in her official capacity. Respondent Mullin's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

36. Respondent Todd BLANCHE is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system operates as a component agency. He routinely transacts business in the Western District of Texas in this capacity; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g) (2007); and as such is a custodian of the Petitioner. He is sued in his official capacity. At all times relevant hereto, Respondent's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530- 0001.

37. Respondent Todd M. LYONS is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the Northern District of Texas, Abilene Division, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Respondent Lyons exercises control over and is custodian of persons held at ICE facilities nationally. He is the Petitioners' immediate

custodian and responsible for Petitioner's detention. He is sued in his official capacity. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

38. Respondent WARDEN is the warden at the EDEN DETENTION CENTER, 704 E Broadway St, Eden, TX 76837, where the petitioner is detained. The Warden has immediate physical custody of Petitioner. The Warden is sued in his official capacity.

39. Respondent, ROBERT CERNA, is ICE Field Officer Director of Detention and Removal. Respondent CERNA is a custodial official acting within the boundaries of the judicial district of the United States Court for the Northern District of Texas, Abilene Division. He is sued in his official capacity. Respondent CERNA'S address is Dallas Field Office, 8101 N. Stemmons Freeway, Dallas, TX 75247. Pursuant to Respondent CERNA's orders, Petitioner remains behind bars.

LEGAL BACKGROUND

40. Section 2241 of 28 United States Code provides in relevant part that "[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions" when a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(a), (c)(3); *see also I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).

41. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).

42. Habeas corpus "entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous application or interpretation' of relevant law."

Boumediene v. Bush, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (quoting, St. Cyr, 533 U.S. at 302.

43. The Fifth Amendment's Due Process Clause protects the right of all persons to be free from "deprivation of life, liberty, or property, without due process of law." U.S. Const. amend. V.

44. "It is well established that the Fifth Amendment entitles aliens to due process of law[.]" *Trump v. J. G. G.*, 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

45. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

46. The INA prescribes three basic mechanisms for detention for non-citizens, 8 U.S.C. § 1225, for arriving aliens and applicants for admission, § 1226 the default detention statute, and § 1231 for post–final order detention.

47. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

48. Following the enactment of the IIRIRA, the U.S. Department of Justice's Executive Office of Immigration Review ("EOIR") drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and

Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formed referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination).

49. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge ("IJ"), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

50. For decades, residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.

51. On July 8, 2025, however, DHS changed its position about custody determinations as follows:

An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).

52. Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-forapplications-for-admission (emphasis original).

53. As a result, according to DHS, all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time

U.S. residents, are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c)." Id.

54. Prior to July 8, 2025, the predominant form of detention authority for anyone arrested in the interior of the United States was 8 U.S.C. § 1226(a).

55. Under § 1226(a) the Attorney General may release a non-citizen from custody on bond or on the non-citizen's own recognizance. 8 U.S.C. § 1226(a) confers such authority to the Executive Office for Immigration Review and ICE.

56. Under the current statutory and regulatory scheme, once a non-citizen is detained, ICE makes the initial custody determination. See 8 C.F.R. § 236.1(c)(8). If ICE makes an unfavorable detention decision, a non-citizen has the right to have an Immigration Judge redetermine the non-citizen's custody status. "[T]he Immigration Judge is authorized to exercise the authority… to detain the alien in custody, release the alien, and determine the amount of bond." *Id* § 236.1(d)(1).

CONSTITUTIONALLY ADEQUATE BOND HEARING

57. The Due Process Clause requires constitutionally adequate bond hearings. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention must "bear [a] reasonable relation to the

purpose for which the individual [was] committed." Id. At 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972))

58. At a minimum, due process requires "adequate procedural protections" to ensure that the Government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (internal quotation marks omitted).

59. In civil detention cases, the Supreme Court "repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty." *Singh*, 638 F.3d 1196, 1204-05 (9th Cir. 2011) (quoting *Addington v. Texas*, 441 U.S. 418, 425 (1979)) (emphasis in original).

60. Civil detention is impermissible without an individualized hearing before a neutral decision maker that tests the Government's justification for imprisonment. *See United States v. Salerno*, 481 U.S. 739, 750-51 (1987) (upholding civil pretrial detention of individuals charged with crimes only upon individualized findings of dangerousness or flight risk at custody hearings); *Foucha v. Lousiana*, 504 U.S. 71, 81-83 (1992) (requiring individualized finding of mental illness and dangerousness for civil commitment); *Kansas v. Hendricks*, 521, U.S. 346, 357 (1997) (upholding civil commitment of sex offenders after jury trial on lack of volitional control and dangerousness).

61. The Ninth Circuit and other district courts have held that immigration detainees are entitled to bond hearings at which the Government bears the burden to prove by clear and convincing evidence that detainees would be a flight risk or danger to the community. *See, e.g.*, *Singh*, 638 F.3d at 1204-05; *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018) (holding that due process requires the burden of proof be placed on

the government in custody redetermination hearings for non-criminal aliens) (Saris, C.J.); *Alvarez Figueroa v. Mc Donald*, Civil Action No. 18-10097-PBS, 2018 U.S. Dist. LEXIS 80781, at *15-16 (D. Mass. May 14, 2018) ("The Zadvydas Court then cited to criminal pretrial detention and civil commitment cases, making it clear that one important procedural protection for preventive detention is the placement of the burden of proof of the government.") (Saris, C.J.); *Doe v. Tompkins*, Case No. 18-cv-12266-PBS, 2019 U.S. Dist. LEXIS 22616, at *4 (D. Mass. Feb 12, 2019) holding that due process requires that the burden of proving that the respondent is dangerous and is a flight risk be placed on the government in § 1226(a) custody redetermination hearings) (Saris, C.J.); *Diaz-Ortiz v. Tompkins*, Case No. 18-cv-12600-PBS, 2019 U.S. Dist. LEXIS 14155, at *3-4 (D. Mass. Jan. 29. 2019) (same) (Saris, C.J.); *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 U.S. Dist. LEXIS 178577, at *13 (S.D.N.Y.Oct. 17, 2018) (concluded that "due process requires the Government to bear the burden of proving that detention is justified at a bond hearing under Section 1226(a)."); *Darko v. Sessions*, 342 F. Supp. 3d 429, 436 (S.D.N.Y.2018)(same; further, "the Court concludes that the government must bear the burden by clear and convincing evidence."); *Haughton v. Crawford*, 221 F. Supp. 3d 712, 713-17 (E.D. Va. 2016) ("the significant deprivation of liberty warrants the robust procedural protections afforded by requiring the government to demonstrate by clear and convincing evidence that petitioner's ongoing detention is appropriate to protect the community and ensure petitioner's appearance at future proceedings.") *Portillo v. Hott*, 322 F. Supp. 3d 698, 2018 WL 3237898, at *8 *n.9 (E.D. Va. 2018) (reaffirming Haughton as "good authority").

STATEMENT OF THE FACTS

62. Rudy Antonio Camacho-Solorzano (hereinafter "Petitioner") is a (56)-year-old citizen and native of Guatemala.

63. Petitioner, Mr. Camacho-Solorzano, first entered the United States without inspection on or about July 20, 1991, near Douglas, Arizona. *See* Exhibit 1 - Notice to Appear.

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81. Based on that petition, Petitioner also filed a Form I-485, Application to Register Permanent Residence or Adjust Status, which remains pending. In connection with that application, Petitioner further filed a Form I-601, Application for Waiver of Grounds of Inadmissibility.

82. These applications, if granted, would permit Petitioner to lawfully remain in the United States as a lawful permanent resident. Accordingly, Petitioner currently has viable forms of immigration relief pending, and his removal is not reasonably foreseeable while these applications remain under consideration.

83. On September 10, 2025 the Department of Homeland Security initiated removal proceedings under 8 U.S.C. § 1229a. *See* Exhibit 16 - EOIR Case Portal

84. Since 2013, Petitioner has consistently complied with his reporting obligations to U.S. Immigration and Customs Enforcement ("ICE"), appearing at all scheduled check-ins as required. On February 23, 2026, Petitioner appeared for a scheduled appointment with ICE in Dallas, Texas, at approximately 1:00 p.m. Upon his arrival, the ICE officer informed Petitioner that he would be taken into custody. The officer did not provide Petitioner with any explanation for the detention other than stating that Petitioner's immigration court hearing would be advanced. At no time did ICE provide Petitioner with a meaningful explanation for the basis of his detention, nor did officers present Petitioner with a warrant or other order authorizing his arrest. Petitioner was thereafter taken into ICE custody.

85. On April 7, 2026, the Immigration Judge ordered Petitioner removed. Petitioner's deadline to file an appeal is May 7, 2026, and Petitioner intends to timely appeal that decision. *See* Exhibit 17 – EOIR Automated Case Information.

86. Petitioner remains detained at the Eden Detention Center in Eden Detention Center in Eden, Texas.

87. Without relief from this court, Petitioner faces continued detention without the possibility of an individualized bond hearing.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND *MATHEWS V. ELDRIDGE FACTORS* PROCEDURAL DUE PROCESS CLAIM

88. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

89. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty. His continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

90. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "[n]o person shall…be deprived of life, liberty, or property without due process of law." As a noncitizen who shows well over "two years" physical presence in the United States (indeed he has over 13 years), Petitioner is entitled to Due Process Clause protections against deprivation of liberty and property. *See* Zadvydas, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether

their presence here is lawful, unlawful, temporary, or permanent."). Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a "sufficiently strong special justification" to outweigh the significant deprivation of liberty. *Id.* at 690.

91. This Respondent's new policy, along with the BIA's decision in *Yajure-Hurtado* violates the procedural due process rights of noncitizen detainees, both facially and as applied. It lacks any reference to or establishment of any procedure for challenging its invocation. The Court should find that there can be no possible application of this policy that would satisfy due process where it purports to authorize the most severe and recognized deprivation of liberty without a hint of a process to challenge such deprivation. In contrast, as the Supreme Court in *Demore* highlighted in upholding the mandatory detention of a noncitizen convicted of a crime under § 1226(c), "process" has been built into that mandatory detention scheme. For example, § 1226(c) applies to detainees whose convictions were generally "obtained following the full procedural protections [the] criminal justice system offers." *Demore v. Kim*, 538 U.S. 510, 513 (2003); *id.* at 525 n.9, (noting that "respondent became 'deportable' under § 1226(c) only following criminal convictions that were secured following full procedural protections"). And if mandatory detention becomes unnecessarily prolonged in that context, the due process' prohibition of arbitrary government detention could entitle a detainee "to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified." Id. at 532 (Kennedy, J., concurring). Detention pursuant to the automatic stay after the government already failed to establish a justification for it,

with no process afforded to challenge the detention as arbitrary, is facially violative of procedural due process.

92. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). "Government detention violates the Due Process Clause unless it is ordered in a criminal proceeding with adequate procedural safeguards, or in certain special and non-punitive circumstances 'where a special justification ... outweighs the individual's constitutionally protected interest in avoiding physical restraint.' " *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (*quoting Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).

93. Here, the DHS, affirmed by the BIA, has determined, improperly, that all persons present in the U.S. who entered without admission are ineligible for bond. It is thus a foregone conclusion that the BIA will affirm the IJ's decision here, and find Petitioner ineligible for bond. Like the accused in criminal cases, habeas is proper. *See Moore v. Dempsey*, 261 U.S. 86 (1923); *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Burns v. Wilson*, 346 U.S. 137, 154 (1953).

94. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). Those factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the

fiscal and administrative burdens that the additional or substitute procedural requirement would entail." Mathews, 424 U.S. at 335, 96 S.Ct. 893; *see also* Hernandez-Fernandez v. Lyons, 2025 WL 2976923 at *8 (W.D. Tex. Oct. 21, 2025).

- **PRIVATE INTEREST**

95. "'The interest in being free from physical detention' is 'the most elemental of liberty interests.'" *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (quoting Hamdi v. Rumsfeld, 542 U.S. 507, 529 (2004)). Federal courts in Texas have found that noncitizens have a protected liberty interest in their freedom, regardless of citizenship status, when they have spent time living, working, or supporting a family in the interior of the United States. See, e.g., *Lopez Miranda v. Flores*, No. EP-25-CV-584-KC, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025); *Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025) (finding noncitizen has protectable liberty interest because he was "living in the United States for over four years and attends his local church"); *Hernandez-Fernandez*, 2025 WL 2976923 at *9 ("Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention.").

96. Mr. Camacho has been living in the United States for over (13) years. He has remained physically present in the United States and has established his life in this country. Petitioner is married and is the father of (4) children, including (2) United States Citizen children. His family depends on him for both emotional and financial support. Petitioner has also sought lawful immigration relief that remains pending before U.S. Citizenship and Immigration Services ("USCIS"). Specifically, on July 2, 2025, Petitioner filed a

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, as a VAWA self-petitioning parent of a United States citizen son or daughter. Based on that petition, Petitioner also filed a Form I-485, Application to Register Permanent Residence or Adjust Status, which remains pending. In connection with that application, Petitioner further filed a Form I-601, Application for Waiver of Grounds of Inadmissibility.

97. These applications, if granted, would permit Petitioner to lawfully remain in the United States as a lawful permanent resident. Accordingly, Petitioner currently has viable forms of immigration relief pending, and his removal is not reasonably foreseeable while these applications remain under consideration.

- **RISK OF ERRONEOUS DEPRIVATION**

98. The government's refusal to provide bond hearings creates a high risk of erroneous deprivation, since the process afforded in removal proceedings does "not ameliorate the risk that [a petitioner] will be erroneously deprived of his liberty while his removability is assessed." *See* Rojas v. Noem, 2025 WL 3038262 at *3-*4. Bond hearings that "conduct individualized custody determinations considering flight risk and dangerousness" are the precise "type of proceeding that would give [a noncitizen] an opportunity to be heard and to receive a meaningful assessment of whether he is dangerous or likely to abscond." *Id.* at *4.

99. Mr. Camacho's history of compliance with release conditions, longstanding residence in the United States, and strong family and community ties demonstrate that individualized review is particularly important to reduce the risk of erroneous detention.

- **GOVERNMENT'S INTEREST**

100. Regardless of the government's purported interest in enforcing its interpretation of the immigration detention statutes, a habeas petitioner's "constitutional interest in his liberty exists above and apart from the INA." *Rojas*, 2025 WL 3038262 at *4 (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.")). Further, while the government "has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community," such interest "would be squarely addressed through a bond hearing." Id. (citing *Martinez v. Noem*, 2025 WL 2598379 at *4 (W.D. Tex. Sep. 8, 2025)).

Fifth Circuit Precedent on Procedural Due Process

101. Federal courts in the Fifth Circuit have repeatedly granted release on procedural due process grounds. Here is a list of a few helpful cases to reference in drafting a procedural due process argument:

- *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026)[1]
- *Clemente Ceballos v. Garite*, 3:26-cv-00312-DB (W.D. Tex. Feb 10, 2026)[2]
- *Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025)
- *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025)
- *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), *report and recommendation adopted*, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025)
- *Rojas v. Noem*, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025)
- *De Leon Hernandez v. Bondi*, 2025 WL 3217037 (W.D. La. Nov. 18, 2025)

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1 Granting habeas relief after acknowledging the Fifth Circuit's precedential decision in Buenrostro-Mendez v. Bondi and noting the case "does not change the case's outcome on procedural due process grounds."

2 Same as footnote 1.

- *Chinchilla v. De Anda-Ybarra*, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025)
- *Vieira v. De Anda-Ybarra*, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025)
- *Cruz-Reyes v. Bondi*, (S.D. Tex. Feb. 3, 2026)
- *Singh v. Taylor*, 2026 WL 360913 (W.D. Tex. Feb. 9, 2026)
- *Aguila v. Warden, ERO El Paso Camp East Montana*, (W.D. Tex. Feb. 9, 2026)

COUNT II

VIOLATION OF 8 U.S.C. § 1226(a)

UNLAWFUL DENIAL OF RELEASE ON BOND

102. Petitioner re-alleges and incorporates herein by reference every allegation set forth in the preceding paragraphs.

103. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, § 1225(b)(2) does not apply to those persons Respondents previously determined should be detained and released under § 1226(a). Further, 8 U.S.C. § 1225(b)(2) does not justify cancellation of a bond or release order issued under 8 U.S.C. § 1226(a).

104. Nonetheless, Respondents have adopted a policy and practice of re-interpreting the detention and release statutory scheme in the INA.

105. The unlawful application of 8 U.S.C. § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT III

VIOLATION OF BOND REGULATIONS

8 C.F.R. §§ 236.1, 1232.1 and 1003.19

UNLAWFUL DENIAL OF RELEASE ON BOND

106. Petitioner re-alleges and incorporates herein by reference every allegation set forth in the preceding paragraphs.

107. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination*." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

108. Nonetheless, Respondents have adopted a policy and practice of applying 8 U.S.C. § 1225(b)(2) to noncitizens like Petitioner whom Respondents previously determined should be detained and released pursuant to § 1226(a).

109. The unlawful application of 8 U.S.C. § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates 8 C.F.R. §§ 236.1, 1232.1 and 1003.19.

COUNT IV

VIOLATION OF THE APA CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY POLICY

110. Petitioner re-alleges and incorporates herein by reference every allegation set forth in the preceding paragraphs.

111. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

112. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those whom Defendants-Respondents previously determined should be detained and released under 8 U.S.C. § 1226(a). Such noncitizens are detained (and released) under 8 U.S.C. § 1226(a) and are eligible for release on bond, unless they were initially placed in expedited removal proceedings pursuant to 8 U.S.C. § 1225(b)(1) or (b), or were detained under 8 U.S.C. § 1226(c) or § 1231.

113. Nonetheless, Respondents have adopted a policy and practice of applying 8 U.S.C. § 1225(b)(2) to noncitizens like Petitioner whom Respondents previously determined should be detained and released pursuant to 8 U.S.C. § 1226(a).

114. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

115. The application of 8 U.S.C. § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT V
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

116. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

117. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty. His continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

118. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "[n]o person shall…be deprived of life, liberty, or property without due process of law." As a noncitizen who shows well over "two years" physical presence in the United States (indeed he has over 13 years), Mr. Camacho-Solorzano is entitled to Due Process Clause protections against deprivation of liberty and property. *See Zadvydas*, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a "sufficiently strong special justification" to outweigh the significant deprivation of liberty. *Id.* at 690.

119. This Respondent's new policy, along with the BIA's decision in *Yajure-Hurtado* violates the procedural due process rights of noncitizen detainees, both facially and as applied. It lacks any reference to or establishment of any procedure for challenging its invocation. The Court should find that there can be no possible application of this policy that would satisfy due process where it purports to authorize the most severe and

recognized deprivation of liberty without a hint of a process to challenge such deprivation. In contrast, as the Supreme Court in _Demore_ highlighted in upholding the mandatory detention of a noncitizen convicted of a crime under § 1226(c), "process" has been built into that mandatory detention scheme. For example, § 1226(c) applies to detainees whose convictions were generally "obtained following the full procedural protections [the] criminal justice system offers." _Demore v. Kim_, 538 U.S. 510, 513 (2003); *id.* at 525 n.9, (noting that "respondent became 'deportable' under § 1226(c) only following criminal convictions that were secured following full procedural protections"). And if mandatory detention becomes unnecessarily prolonged in that context, the due process' prohibition of arbitrary government detention could entitle a detainee "to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified." Id. at 532 (Kennedy, J., concurring). Detention pursuant to the automatic stay after the government already failed to establish a justification for it, with no process afforded to challenge the detention as arbitrary, is facially violative of procedural due process.

120. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." _Zadvydas v. Davis_, 533 U.S. 678, 690 (2001). "Government detention violates the Due Process Clause unless it is ordered in a criminal proceeding with adequate procedural safeguards, or in certain special and non-punitive circumstances 'where a special justification ... outweighs the individual's constitutionally

protected interest in avoiding physical restraint.' " Zavala v. Ridge, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (*quoting* Kansas v. Hendricks, 521 U.S. 346, 356 (1997)).

121. Here, the DHS, affirmed by the BIA, has determined, improperly, that all persons present in the U.S. who entered without admission are ineligible for bond. It is thus a foregone conclusion that the BIA will affirm the IJ's decision here, and find Petitioner ineligible for bond. Like the accused in criminal cases, habeas is proper. *See* Moore v. Dempsey, 261 U.S. 86 (1923); Johnson v. Zerbst, 304 U.S. 458 (1938); Burns v. Wilson, 346 U.S. 137, 154 (1953).

COUNT VI
MALDONADO BAUTISTA V. SANTACRUZ

122. Under *Maldonado Bautista v. Santacruz*, the relevant inquiry for determining the statutory basis of detention is the Petitioner's most recent arrest and custody determination, not the historical fact of his entry into the United States.

123. Here, Petitioner entered the United States without inspection on or about January 21, 2013, near Sasabe, Arizona, after leaving Guatemala. On June 3, 2013, U.S. Immigration and Customs Enforcement ("ICE") issued an Form I-220B Order of Supervision, releasing Petitioner under supervision. Petitioner was instructed to report in person on June 25, 2013, at the ICE Field Office located at 8101 N. Stemmons Freeway, Dallas, Texas.

124. Petitioner's current detention arises solely from DHS's arrest in the interior of the United States, twelve years after his entry. Under *Maldonado Bautista*, detention authority must be assessed based on the circumstances of this most recent arrest, which constitutes the operative deprivation of liberty.

125. Section 1225(b)(2) applies only to individuals who are apprehended "upon arrival" or who are "seeking admission" at the time DHS exercises custody authority. Applying § 1225(b)(2) to Petitioner—who was previously released under § 1226(a) and later re-detained in the interior—impermissibly transforms "apprehended upon arrival" into a perpetual status, a reading expressly rejected by *Maldonado Bautista.*

126. Petitioner remains detained, if at all, under 8 U.S.C. § 1226(a) and is entitled to an individualized bond hearing before an Immigration Judge.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

A. Assume jurisdiction over this matter;

B. Order Respondents to Show Cause why this Petition should not be granted within seventy-two hours;

C. Issue an Order preventing Respondents from removing Petitioner from the United States without notice and an opportunity to be heard;

D. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

E. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.

F. In the alternative, order Respondents to conduct a Constitutional hearing before an independent examiner where the Government bears the burden of proof to demonstrate by clear and convincing evidence why Petitioner should not be released and whether Petitioner presents a flight risk or a danger to the community.

G. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

H. Grant any further relief this Court deems just and proper.

Dated: April 9, 2026

Respectfully Submitted,

/s/ DAVID H. SQUARE
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Rudy Antonio Camacho, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this April 9, 2026.

/s/ David H. Square
David H. Square, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2026, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the Northern District of Texas.

/s/ David H. Square
David H. Square