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GUILLERMO HELADIO GUERRERO FELIX

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GUILLERMO HELADIO GUERRERO FELIX,	)	Case No. 1:26-cv-5236-NW
	)	PETITIONER'S TRAVERSE
Petitioner,	)	
	)	
vs.	)	
	)	
Warden, Golden State Annex, <i>et al.</i> ,	)	
	)	
Respondents.	)	

I. Introduction

After twenty years of residence in the United States, Mr. Guerrero Felix was driving in Dallas when he was suddenly arrested and taken into ICE custody. For the past three months, he has been separated from his lawful permanent resident wife and U.S. citizen son, without any bond hearing at which he could argue for his release.

Mr. Guerrero Felix's detention is unlawful. Contrary to Respondents' arguments, Mr. Guerrero Felix's custody is governed by 8 U.S.C. § 1226, not 8 U.S.C. § 1225. Respondents' argument has been rejected by this Court and others in this District repeatedly. *See, e.g., Salgado v. Warden, Golden State Annex*, 1:26-cv-03498-NW, 2026 WL 1354728 at *3 (E.D. Cal. May 14, 2026). Respondents violated Mr. Guerrero Felix's statutory rights by detaining him without a warrant, and by failing to provide him with a bond hearing. *See* 8 U.S.C. § 1226(a) (authorizing arrest only "On a warrant issued by the Attorney General"); *id.* § 1226(a)(1)-(2)

1 setting out bond process for noncitizens detained under this subsection).

2 Further, Mr. Guerrero Felix's due process rights were also violated by his detention
3 without a hearing. His liberty interest in remaining free from detention is strengthened by his
4 many years of the United States, his U.S. citizen and lawful permanent resident family members,
5 and his total lack of criminal history. Respondents have not meaningfully responded to this
6 argument.

7 Accordingly, this Court should grant Mr. Guerrero Felix's petition and order his
8 immediate release.

9 **II. Background**

10 Mr. Guerrero Felix entered the United States in without inspection many years ago. Dkt.
11 1 at 3. He has been here more than 20 years. Originally from Mexico, Mr. Guerrero Felix is
12 married to a lawful permanent resident and has a U.S. citizen son. *Id.* at 4. He owns a home in
13 Lancaster, Texas and has several family members who are lawful permanent residents or U.S.
14 citizens. *Id.*

15 Mr. Guerrero Felix was driving a vehicle that was stopped by the ERO Dallas Fugitive
16 Operations Team on April 9, 2026. *Id.* Mr. Guerrero Felix was arrested—not for any crime but to
17 be transferred to ICE custody—and has been detained since. The immigration judge denied him
18 a bond hearing and no hearing has been held to determine whether his incarceration is justified.
19 He does not have a final order of removal. *Id.* at 5.

20 Mr. Guerrero Felix filed a Petition for a Writ of Habeas Corpus on July 8, 2026. *Id.* On
21 July 9, 2026, this Court ordered Respondents to file responsive papers to the Petition by July 23,
22 2026. Dkt. 6. Respondents did not file an answer but instead chose to stand on their two-page
23 opposition filed July 9, 2026 justifying Mr. Guerrero Felix's current detention on the ground that
24 he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Dkt. 5. The opposition
25 does not mention the Due Process Clause or explain how this detention does not violate it. This
26 traverse follows.

27 **III. Argument**

28 **A. Contrary to Respondents' Argument, Mr. Guerrero Felix is Not Subject to Mandatory Detention.**

1
2 Contrary to Respondents' contention, Mr. Guerrero Felix is not an applicant for
3 admission subject to detention under 8 U.S.C. § 1225(b)(2)(A). This Court has previously
4 recognized that "Section 1226, rather than Section 1225, applies to noncitizens. . .who have been
5 living in the country for many years[.]" and that this "follows from the plain text and structures
6 of the statutes and DHS's longstanding prior practice." *Salgado*, 2026 WL 1354728 at *3. This
7 Court has also found that where, as here, Respondents only erroneously argue that a petitioner is
8 detained subject to Section 1225, and do not argue that he is lawfully detained under Section
9 1226 or another statute, the proper remedy is immediate release. *Silva Alvarez v. Warden,*
10 *California City Immigration Processing Center*, 1:26-cv-04067-NW, 2026 WL 1826484 at *3
11 (E.D. Cal. June 24, 2026); *see also Hortua v. Chestnut*, No. 1:25-CV-01670-TLN-JDP, 2025 WL
12 3525916, at *3 (E.D. Cal. Dec. 9, 2025) ("[T]he Court finds Respondents' argument — that
13 Petitioner cannot assert a liberty interest because she is an 'applicant for admission' under
14 § 1225 and therefore subject to mandatory detention, ineligible for release, parole, or a custody
15 redetermination hearing — unpersuasive."); *Estrada-Samayoa v. Cruz*, No. 1:25-CV-01565-
16 EFB, 2025 WL 3268280, at *4 (E.D. Cal. Nov. 24, 2025) (collecting cases).

17 Because Mr. Guerrero Felix has resided in the United States for more than twenty years,
18 he is obviously not an "arriving alien" to whom § 1225(b)(2)(A) applies. His detention is
19 governed by § 1226(a) and he is entitled to the process that statute requires, including a bond
20 hearing, which he did not receive. By treating Mr. Guerrero Felix as a person subject to
21 mandatory detention under 8 U.S.C. § 1225(b)(2)(A), Respondents violated the Immigration and
22 Nationality Act. Given that Mr. Guerrero Felix has already spent three months in custody, the
23 proper remedy for this violation is his immediately release.

24 **B. Mr. Guerrero Felix's Detention Violated the Due Process Clause**
25 **of the Fifth Amendment to the United States Constitution.**

26 The government violated Mr. Guerrero Felix's due process rights. The Fifth Amendment
27 Due Process Clause prohibits government deprivation of an individual's life, liberty, or property
28 without due process of law. U.S. Const. amend. V; *Hernandez v. Sessions*, 872 F.3d 976, 990
(9th Cir. 2017). The Due Process Clause applies to all "persons" within the borders of the United

1 States, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“[T]he
2 Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens],
3 whether their presence here is lawful, unlawful, temporary, or permanent.”). These due process
4 rights extend to immigration proceedings, including detention and deportation proceedings. *Id.* at
5 693–94; *see Demore v. Kim*, 538 U.S. 510, 523 (2003).

6 Courts examine procedural due process claims in two steps: the first asks whether there
7 exists a protected liberty interest under the Due Process Clause, and the second examines the
8 procedures necessary to ensure any deprivation of that protected liberty interest accords with the
9 Constitution. *See Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460 (1989);
10 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (“Once it is determined that due process applies,
11 the question remains what process is due.”). Here, Mr. Guerrero Felix was deprived of his
12 freedom without the notice and hearing required by due process.

13 **i. Mr. Guerrero-Felix has a liberty interest in remaining out of immigration**
14 **custody.**

15 “Freedom from imprisonment—from government custody, detention, or other forms of
16 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
17 *Zadvydas*, 533 U.S. at 690. In the twenty years before he was detained by Respondents, Mr.
18 Guerrero Felix exercised that freedom. Importantly, during that time, Mr. Guerrero Felix
19 remained a law-abiding community member without any criminal convictions. He set down roots
20 in the United States: he is married to lawful permanent resident, and has a United States citizen
21 child. His detention infringes on his liberty and has separated him from his family. Thus, he has a
22 clear interest in his continued liberty protected by the Due Process Clause. *See S. v. Holder*, 638
23 F.3d 1196, 1204 (9th Cir. 2011) (“The Supreme Court has repeatedly recognized that civil
24 commitment for *any* purpose constitutes a significant deprivation of liberty.”) (quoting
25 *Addington v. Texas*, 441 U.S. 418, 425-27 (1979)).

26 **ii. The government detained Mr. Guerrero-Felix without due process.**

27 To determine what process is necessary to ensure any deprivation of Mr. Guerrero Felix’s
28 protected liberty interest accords with the Constitution, the Court must consider three factors: (1)

1 “the private interest that will be affected by the official action”; (2) “the risk of an erroneous
2 deprivation of such interest through the procedures used, and the probable value, if any, of
3 additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the
4 function involved and the fiscal and administrative burdens that the additional or substitute
5 procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). As set
6 forth below, these factors support Mr. Gurrero Felix’s constitutional right to pre-deprivation
7 notice and a hearing.

8 First, as explained above, Mr. Guerrero Felix has a substantial private interest in his own
9 liberty that is unquestionably affected by the Government’s actions detaining him. The amount
10 of time Mr. Guerrero Felix has spent in the United States, more than two decades, underscores
11 the gravity of its loss. *See Xinhai H., v. Robbins*, No. 1:26-CV-02622-TLN-CSK, 2026 WL
12 983176, at *3 (E.D. Cal. Apr. 13, 2026) (holding so about a petitioner who has been at liberty in
13 the United States since 2024). The government, in its sparse opposition that does not mention
14 due process, notes that Mr. Guererro Felix was “previously required to depart the United States
15 on three occasions.” Opp. at 2. These occasions represent three voluntary departures from the
16 border after failed entries—all within days of each other in 2003. All immigrants initially
17 crossing without inspection understand that it may not be authorized. This has no effect on the
18 meaning of the subsequent 20-plus years Mr. Guerrero Felix has spent in the United States and
19 the life he has built here.

20 Second, the risk of erroneous deprivation of Mr. Guerrero Felix’s liberty interest is
21 considerable. Because civil immigration detention is “nonpunitive in purpose and effect,” a
22 “special justification” must outweigh Mr. Guerrero Felix’s protected liberty interest for his
23 detention to comport with due process. *Zadvydas*, 533 U.S. at 690. As Mr. Guerrero-Felix has
24 received no procedural safeguards such as a bond hearing, the risk that he is being detained
25 without justification is high. *A.E. v. Andrews*, No. 1:25-CV-00107-KES-SKO, 2025 WL
26 1424382, at *5 (E.D. Cal. May 16, 2025). The government has made no argument that Mr.
27 Guerrero Felix is a danger to society, and his total lack of criminal history shows otherwise. He
28 is also clearly not a flight risk. He has three children and a wife in the United States, owns his

1 home, has stable employment in construction, and has no reason to leave the area.

2 Third, the government's interest in detaining Mr. Guerrero Felix without notice and a
3 hearing is low. The effort and cost required to provide Mr. Guerrero Felix with procedural
4 safeguards are minimal. *See Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025).
5 Notice and custody-determination hearings are routine processes for Respondents and are indeed
6 the very processes required under 8 U.S.C. § 1226(a). Any burden associated with the provision
7 of these processes does not outweigh Mr. Guerrero Felix' substantial liberty interest and the risk
8 of erroneous deprivation.

9 Upon consideration of the *Mathews* factors, the Court should find that Mr. Guerrero Felix
10 is entitled to notice and a hearing before a neutral decisionmaker. He has received neither. Mr.
11 Guerrero Felix's detention thus violates the Fifth Amendment Due Process Clause.

12 Because the Due Process Clause required that Mr. Guerrero Felix be provided notice and
13 an opportunity to be heard before he was detained, the appropriate remedy is for this Court to
14 order his immediate release—not a bond hearing. Other courts have found that a post-deprivation
15 bond hearing is not sufficient to cure the Due Process violation of failing to provide a pre-
16 deprivation hearing. *Se, e.g., E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash.
17 2025) ("Although the Government notes that Petitioner may request a bond hearing while
18 detained, such a post-deprivation hearing cannot serve as an adequate procedural safeguard
19 because it is after the fact and cannot prevent an erroneous deprivation of liberty."). Here, Mr.
20 Guerrero Felix has already spent three months unlawfully detained. Respondents knew very well
21 that both § 1226(a) and the Due Process Clause entitled him to a bond hearing, but they chose
22 not to provide him with one. At this point, Respondents should not be permitted to continue to
23 detain Petitioner on the pretext that additional time is needed to grant him a bond hearing.
24 Immediate release to allow Mr. Guerrero Felix to reunite with his family is the only appropriate
25 remedy in this case.

26 IV. Conclusion

27 For the foregoing reasons, Mr. Guerrero Felix respectfully requests the Court GRANT his
28 Petition for Writ of Habeas Corpus (ECF No. 1) pursuant to 28 U.S.C. § 2241 and ORDER that:

1 a. Respondents must IMMEDIATELY RELEASE Mr. Guerrero Felix from custody to
2 return to the status quo ante prior to his current detention. *See Yang v. Kaiser*, No. 2:25-cv-
3 02205-DAD-AC, 2025 WL 2791778, at *11 (E.D. Cal. Aug. 20, 2025) (status quo ante is “the
4 last uncontested status which preceded the pending controversy.”). At the time of release,
5 Respondents must return all of Mr. Guerrero Felix’s documents and possessions. Respondents
6 shall not impose any additional restrictions on him, unless such restrictions are determined to be
7 necessary at a future pre-deprivation custody hearing that complies with the requirements of the
8 Due Process Clause. Respondents must file a notice certifying compliance with this provision of
9 the Court’s Order by within two (2) court days from the date of this Order.

10 b. Respondents are ENJOINED AND RESTRAINED from re-detaining Petitioner unless
11 they provide 7 days’ notice to Petitioner and a pre-deprivation bond hearing before a neutral
12 arbiter pursuant to 8 U.S.C. § 1226(a) and its implementing regulations, at which Petitioner's
13 eligibility for bond must be considered.

14 c. The Clerk of Court shall enter judgement in favor of Petitioner and close this case.

15
16 Respectfully submitted,

17 JODI LINKER
18 Federal Defender

19 Date: July 29, 2026

20 /s/
21 TAYLOR FATHERREE
22 Assistant Federal Defender
23 Attorney for Petitioner
24 GUILLERMO HELADIO GUERRERO FELIX
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