

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MAURICIO LOPEZ,	)	
Petitioner,	)	
v.	)	No. 3:26-cv-00003
	)	
KEVIN RAYCRAFT, et. al.	)	
Respondent,	)	

SUPPLEMENTAL BRIEF

NOW COMES, the Petitioner, and presents this supplemental brief pursuant to the Court order of January 30, 2026, in support the petitioner states as follows:

The Court ordered the following, each petitioner shall brief (1) whether he or she was arrested “on a warrant issued by the Attorney General”; (2) if not, how he or she is eligible for bond under 8 U.S.C. § 1226; and (3) if not eligible for a bond for want of an Attorney General-issued warrant, how habeas relief is available at all. The Petitioner is not aware if he was arrested on a warrant issued by the Attorney General. Petitioner recognizes the recent decision in *Buenrostro v. Bondi*, ---F.4th---, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). The recent Fifth Circuit decision has resolved Petitioner’s declaratory and statutory claims, and holds in contra to the position advanced by Petitioner. *Buenrostro*, 2026 WL 323330, at *4-8. Unless *Buenrostro* is stayed or reversed on appeal, this Court is required to dismiss Petitioner’s first claim. Although *Buenrostro* forecloses a statutory basis for release in the Fifth Circuit for now, it leaves untouched the constitutional limits on immigration detention.

Buenrostro does not address, and therefore does not foreclose, the argument that an immigrant detained under 8 U.S.C. § 1225 is entitled to a bond hearing at the beginning of their

case, or to release, as a matter of constitutional law. Nor does it diminish the long-standing role of habeas corpus as a foundational mechanism for challenging unlawful executive detention. All persons within the United States possess a cognizable, protectable liberty interest in freedom from physical restraint in the most basic constitutional sense, and habeas corpus remains the fundamental instrument for safeguarding that liberty by ensuring immigration detention is not arbitrary, unlawful, or inconsistent with due process. In line with this principle, multiple federal courts in the Fifth Circuit have granted habeas relief on procedural due process grounds notwithstanding the statutory limitations addressed in *Buenrostro*.

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).

“‘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.”). 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.

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)).

Federal courts in the Fifth Circuit have repeatedly granted release on procedural due process grounds; *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026), *Clemente Ceballos v. Garite*, 3:26-cv-00312-DB (W.D. Tex. Feb 10, 2026), *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), *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).

For the foregoing reasons, this Court should grant Petitioner's petition for writ of habeas corpus and order Respondent to either: (1) afford Petitioner a bond hearing before an Immigration Judge; or (2) release Petitioner from custody.

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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2026, a copy of the foregoing reply memorandum was filed electronically. Service of this filing will be made on the ECF-registered counsel by operation of the Court's electronic filing system:

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