

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

SACHIN KUMAR,

Petitioner,

v.

CURTIS TAYLOR, et al.,

Respondents.

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Case No. 26-cv-110-LS

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Respondents' boilerplate Response (Dkt. 6) cites several pages of district-court decisions accepting the Government's novel interpretation of § 1225(b), but this is misleading: in fact, as the media has reported, 373 federal judges have ruled against the Government's position in at least 3,500 cases, as opposed to a substantial minority of just 28 judges who have upheld it.¹ Moreover, the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), on which Respondents rely (Dkt. 6 at 8-9) has now been vacated. *Maldonado Bautista v. Santacruz*, 5:25-cv-1873-SSS-BFM, Dkt. 116, slip op. at 19 (C.D. Cal. Feb. 18, 2026). An agency decision like *Yajure Hurtado* is not binding on the Court in any case; now, with vacatur, it is not even persuasive.

Petitioner concedes, as he must, that the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, -- F.4th --, 2026 WL 323330 (5th Cir. Feb. 6, 2026), forecloses Count I of Petitioner's

¹ Kyle Cheney, *Even Trump's own appointees are ruling against ICE's mass detention strategy*, Politico (Feb. 12, 2026), <https://www.politico.com/news/2026/02/12/donald-trump-judges-mandatory-detention-rulings-00778256>.

habeas petition, a statutory claim under the INA.² However, as courts in this district have recognized post-*Buenrostro-Mendez*, the Fifth Circuit's decision said nothing about due-process arguments like the ones Mr. Kumar makes in Count II, and therefore such a claim remains viable.

As set forth below, this Court should follow the recent decisions of Judges Cardone and Briones in this district and find that Mr. Kumar's detention without process justifies a grant of habeas relief. In the alternative, the Court should join other courts that have recognized the binding effect of the *Maldonado Bautista* class-action judgment and order relief on those grounds.

ARGUMENT

I. *Buenrostro-Mendez* did not rule on Petitioner's due-process claim, which remains viable, and which warrants relief under several recent decisions in this district.

Following the Fifth Circuit's decision in *Buenrostro-Mendez* on February 6, courts in this district have held that it does not foreclose due-process claims like the ones Petitioner makes in his petition. *See* Pet. (Dkt. 1) at ¶¶ 67-75, 79-83 (pleading due process claim); *see also, e.g., Bonilla Conforme v. De Anda-Ybarra*, EP-26-CV-263-KC, 2026 WL 381110 (W.D. Tex. Feb. 11, 2026) (Cardone, J.); *Tellez-Aguilar v. De Anda-Ybarra*, EP-26-CV-238-KC, Dkt. 4 (W.D. Tex. Feb. 9, 2026) (Cardone, J.); *Cumbe Lema v. De Anda-Ybarra*, EP-26-CV-249-KC, Dkt. 7 (W.D. Tex. Feb. 9, 2026) (Cardone, J.); *Marceau v. Noem*, EP-26-CV-237-KC, 2026 WL 368953 (W.D. Tex. Feb. 9, 2026) (Cardone, J.); *Hassen v. Noem*, EP-26-00048-DB, Dkt. 8 (W.D. Tex. Feb. 9, 2026) (Briones, J.) (all granting habeas relief on due process grounds, despite *Buenrostro-Mendez*).³

² Petitioner nonetheless does not stipulate to dismissal of that claim, since Petitioner anticipates a vote to rehear *Buenrostro-Mendez* en banc, and if a majority of the Fifth Circuit votes to rehear it, the panel decision will be vacated, thus making Mr. Kumar's Count I viable again.

³ Of course, the decisions of other district judges in this district are not binding on this Court. *United States v. Rao*, 123 F.4th 270, 281 (5th Cir. 2024). Nonetheless, there is something to be said for the notion that whether a noncitizen in the Western District of Texas is granted his freedom or doomed to indefinite mandatory detention should come down to something more than the coin-flip of a random judge assignment.

These cases did not turn on the statutory distinction between § 1225 and § 1226, but instead used the balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), to determine that the petitioners' detention without a bond hearing violated due process. *See, e.g., Bonilla Conforme*, 2026 WL 381110, at *2; *Hassen*, 3:26-cv-48-DB, Dkt. 8 at 2 (citing *Vieira v. De Anda Ybarra*, -- F. Supp. 3d --, 2025 WL 2937880, at *6-7).

As the court noted in *Bonilla Conforme*, “*Buenrostro-Mendez* requires denial of the Petition in part as to Bonilla Conforme’s statutory claim. However, the *Buenrostro-Mendez* court did not reach the due process question, confining its analysis and holding to statutory interpretation.” 2026 WL 381110, at *1 (citing *Buenrostro-Mendez*, 2026 WL 323330, at *1-10). Furthermore, the court noted that the Fifth Circuit did not order dismissal of the underlying habeas petition, but instead remanded it to the district court “for further proceedings consistent with this opinion,” presumably, the court said, for “consideration of *Buenrostro-Mendez*’s due process claim, which the district court declined to reach in the first instance.” *Id.* The court further pointed out that Respondents’ counsel at oral argument before the Fifth Circuit stated bluntly that, “We have one issue before the Court now: the statutory question ... There’s not, in other words, a due process claim here.” *Id.* (citing Oral Argument, *Buenrostro-Mendez v. Bondi*, No. 25-20496, at 44:56–45:11 (5th Cir. Feb. 3, 2026), available at https://www.ca5.uscourts.gov/OralArgRecordings/25/25-20496_2-3-2026.mp3).

In *Vieira*, which the court reaffirmed post-*Buenrostro-Mendez* in *Hassen*, the court found “[t]he Supreme Court’s balancing test in *Mathews v. Eldridge*” to be “dispositive.” *Vieira*, 2025 WL 2937880, at *6. As a threshold matter, the *Vieira* court, like most courts to consider the issue, rejected Respondents’ contention that *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) applies to cases like this one. *Id.* at *4. For one thing, the petitioner in that case was

apprehended in the process of entry, unlike Mr. Kumar, who entered the country over two years ago and was apparently not apprehended on arrival. *See id.* at *4-5; Dkt. 1 at ¶ 22; *see also, e.g., Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 682-685 (W.D. Tex. 2025) (containing a thorough explanation of why *Thuraissigiam* is not applicable); *Singh v. Stevens*, -- F. Supp. 3d --, 2026 WL 456489, at *7 (N.D. Ohio Feb. 18, 2026) (“Respondents’ reliance on *Thuraissigiam* is misplaced because the petitioner in that case was detained shortly after crossing the border ... and, therefore, never established a protected liberty interest”).

Turning to the *Mathews* test, courts in this district have repeatedly found that all three factors of that test weigh in favor of petitioners like Mr. Kumar. *See, e.g., Lopez-Arevelo*, 801 F. Supp. 3d at 687 (“Because all three Mathews factors support Lopez-Arevelo’s position, the Court finds that detaining him without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process under the Fifth Amendment to the United States Constitution.”); *Vieira*, 2025 WL 2937880, at *6-7 (similar); *Bonilla Conforme*, 2026 WL 381110, at *2 (collecting cases). Accordingly, courts in this district have ordered bond hearings to redress the due-process violation, at which the government bears the burden of proof by clear and convincing evidence. *See, e.g., Bonilla Conforme*, 2026 WL 381110, at *3; *Lopez-Arevelo*, 801 F. Supp. 3d at 687 (collecting cases); *Hassen*, EP-26-CV-48-DB, slip op. at *4.

Finally, Respondents include boilerplate arguments about exhaustion of administrative remedies, but this is already addressed in Mr. Kumar’s Petition. Dkt. 1 at ¶¶ 28-33. In any event, “exhaustion does not bar this court’s review because it is not a statutory requirement in these circumstances.” *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025). And the Fifth Circuit has recognized exceptions to exhaustion, including “where available administrative remedies are (i) unavailable, (ii) wholly inadequate, (iii) patently futile, or (iv) when

a constitutional challenge is advanced that is unsuitable for determination in an administrative proceeding.” *Cabanas v. Bondi*, 2025 WL 3171331, at *3 (S.D. Tex. Nov. 13, 2025) (citing *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994); *Garner v. U.S. Dep’t of Labor*, 221 F.3d 822, 825 (5th Cir. 2000)). Finally, exhaustion of administrative remedies is also warranted in cases involving constitutional claims. *Cabanas*, 2025 WL 3171331, at *3; *Garner*, 221 F.3d at 825. Here, Mr. Kumar brings a constitutional due process claim that cannot be adjudicated by the BIA, since it cannot rule on constitutional claims. *See* Dkt. 1 at ¶ 31 (collecting cases). In short, exhaustion is not required by statute, and there are any number of prudential reasons to excuse it here, as nearly every district court in the country to consider this issue has previously found. Therefore, this Court should reach the merits of the case.

Ultimately, the recent Fifth Circuit decision in *Buenrostro-Mendez* says nothing about Petitioner’s due-process claim, and, as courts in this district have repeatedly held, the Due Process Clause requires, at a minimum, a bond hearing before a neutral adjudicator to determine whether Mr. Kumar’s detention is warranted on grounds either of dangerousness or flight risk.

II. This Court should find that the final judgment in *Maldonado-Bautista* has preclusive effect and that under principles of *res judicata*, Mr. Kumar is detained under § 1226(a).

In *Maldonado Bautista v. Santacruz*, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), the court certified a “Bond Eligible Class,” consisting of “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.” *Id.* at *2, 32. Although Petitioner raised this issue in his Petition (Dkt. 1 at ¶ 7), Respondents make no response and do not appear to dispute that he is part of the Bond Eligible Class. The *Maldonado Bautista* court held that “all members of the Bond

Eligible Class are entitled to relief in the form of declaratory relief.” *Id.* at *32. In entering final judgment, the court “**DECLARE[D]** that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2).” *Maldonado Bautista v. Santacruz*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025), at *1.

Recently, a court in the Southern District of Texas analyzed the effect of *Maldonado Bautista* on cases like this one. *Montoya Cabanas v. Bradford*, 4:26-cv-00032, Dkt. 12 (S.D. Tex. Jan. 25, 2026). The *Montoya Cabanas* court found that “Cabanas is entitled to relief under *Maldonado Bautista*,” noting that “respondents can resist the preclusive force of that judgment only if the rendering court lacked jurisdiction over Cabanas ... But [] both the respondents and Cabanas are parties to the California judgment.” *Id.*, slip op. at *2. The court further noted that although *Maldonado Bautista* is on appeal, “a judgment is entitled to preclusive effect even though an appeal is pending.” *Id.* at *3 (citing *Stevens v. St. Tammany Par. Gov’t*, 17 F.4th 563, 571 (5th Cir. 2021)). The court rejected Respondents’ other arguments, noting that they had raised the same arguments before the California district court and lost. *Id.* The court concluded that “Cabanas is entitled to the preclusive effect of the declaration that ‘Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2).’” *Id.* (citing *Maldonado Bautista*, 2025 WL 3678485, at *1). Having found that, under principles of res judicata, the petitioner had conclusively been determined to be detained under § 1226(a), the court ordered a bond hearing. *Id.* at *3-4; *see also Coronel Evaristo v. Dep’t of Homeland Sec.*, 5:25-cv-215-BJB, 2026 WL 297706 (W.D. Ky. Feb. 4, 2026); *Memetova v. Olson*, 4:26-cv-23-BJB, 2026 WL 253017 (W.D. Ky. Jan. 30, 2026); *Justo S. v. Orestes Cruz*, 1:26-cv-469-JLT-SKO, 2026 WL 249565 (E.D. Cal. Jan. 30, 2026) (report and recommendation); *Tercero v. LaRose*, 26-cv-325-GPC-JLB, 2026 WL 206312 (S.D. Cal. Jan. 27, 2026) (“Respondents acknowledge that

pursuant to *Maldonado Bautista* ... Petitioner is detained under 8 U.S.C. § 1226(a) and is entitled to a court ordered bond hearing”); *see also Garcia Nicolas v. Mattos*, 2:26-cv-100-RFB-MDC, 2026 WL 272457, at *2, n.5 (D. Nev. Feb. 2, 2026) (noting that “the District Court’s Order in *Bautista* has recently become final, extending declaratory relief to the class.”).

CONCLUSION

This Court should follow the decisions of other courts in this district and order Respondents to provide Mr. Kumar a bond hearing under § 1226(a).

Dated: February 19, 2026

Respectfully submitted,

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Certificate of Service

The undersigned certifies that the foregoing was filed using the Court’s CM/ECF system on this 19th day of February, 2026, which sent notice of such filing to all parties receiving electronic notice.

/s/ James D. Jenkins

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