UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Cristian Midael Cardona Marroquin, Petitioner, v. Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security; Todd M. Lyons, in his official capacity as Acting Director of Immigration and Customs Enforcement; Garret Ripa, in his official capacity as Miami Field Office Director, Immigration and Customs Enforcement's Enforcement and Removal Operations; Mitchell Diaz, in his official capacity as Assistant Field Office Director, Broward Transitional Center; Cynthia Swain, in her Official capacity as Warden of Broward Transitional Center Respondents.	Case No: 0:26-cv-60229-DMM COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, AND VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

PEITIONER'S RESPONSE TO RESPONDENT'S SUPPLEMENTAL BRIEF

COMES NOW the Petitioner, Cristian Midael Cardona Marroquin, by and through his undersigned counsel and hereby submits his Response to Respondent's Supplemental Brief and accompanying case law [ECF No. 9, 9-1, and 9-2], and states as follows:

Introduction

Respondents again fail to provide this Court with the required analysis to prove their position. The burden is on Respondents to Show Cause as to why the Petition should not be granted. Respondents cannot merely present a case before the Court without providing the legal and factual examination to apply that case to the current Matter. By failing to do so, Respondents

do not carry their required burden of proof. Out of an abundance of caution, Petitioner writes this Response to further distinguish the factual and legal arguments between the two cases.

No Obligation to Follow an Outlier Decision by a Separate Circuit Court

This Court is well aware that it is not bound by the decisions of different Circuit Court Districts. As there is no ruling by the 11th Circuit, this Court should give more weight to the numerous decisions reached by other judge's in the Southern District and the sister Courts under the 11th Circuit. See ECF No. 1 at 16-17, 19-20; ECF No. 7 at 3-5. Further, the 5th Circuit appears to be the outlier amongst the federal courts across the country. See ECF No. 1 at 20 Fn 4 (reproduced in ECF No. 8 at Fn 1); ECF No. 8 at 6.

Respondent's Cited Cases are Factually and Legally Distinguishable

Respondent fails to provide this Court with an analysis of either of the additional cases cited in the Supplemental Brief. ECF No 8. Instead, it offers a blanket statement that both decisions hold that "noncitizen petitioners in removal proceedings are subject to mandatory detention under 28 U.S.C. § 1225(b)(2) because they were present in the United States without being admitted or paroled, despite having entered illegally years ago." ECF No. 9.

Respondents again ignore key facts and legal statutes argued in both Petitioner's Habeas Petitioner (ECF No. 1) and Petitioner's Traverse ECF No. 8. The case before the 5th Circuit does not address a Due Process claim at all and the Court makes no reference to Fifth Amendment issues. That case also does not concern a J.O.P. class member who is at risk of indefinite detention given his pending USCIS asylum application. *Compare* ECF 9-1 at 1-21 with ECF No. 8 at 2-5. The 5th Circuit does not address a situation where a Petitioner could be held indefinitely without being removed. The Fifth Amendement Due Process violation central in this case remains unadressed and not subject to the Fifth Circuit's analysis.

Further, the Fifth Circuit in *Buenrostro-Mendez v. Bondi* only addresses a situation where the non-citizen was identified and detained as an adult.[1] ECF No. 9-1 at 6-7. The Fifth Circuit

[1] As Judge Dimitrouleas's Order adopted the reasonsing and conclusion of the Fifth Circuit in its entirety, Petitioner focuses on the reasoning and fact pattern contained within *Buenrostro-Mendez v. Bondi.*

Petitioner has attempted to view the locked Habeas Petition filed in *Perez Morales v. Noem*, et al., No.26-60251-CIV DIMITROULEAS, ECF No. 15 (S.D. Fla. Feb. 9, 2026) but is unable to view the Petition to determine if the case involved a UC or is otherwise distinguishable from this Matter. Petitioner is prejudiced by Respondent's

does not address the current fact pattern before this Court: where the Petitioner is designated an Unaccompanied Child (UC) and processed under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), transferred to the Department of Health and Human Services (HHS) and then remanded to the jurisidiction of the Office of Regugee Resettlement (ORR). ECF No. 1 at 2, 11, 15, 18, 20; ECF No. 8 at 7-9. Petitioner is governed by the ORR's determination, pursuant to the TVPRA, that Petition is not a flight risk or danger to the community.[2] Being processed under a different statutory regime establishes that he was not subject to mandatory detention under § 1225(b)(2). ECF No. 8 at 7-10. *Buenrostro-Mendez v. Bondi,* is factually and legally distinguishable from the case currently before this Court.

Conclusion

Respondents' supplemental brief do not change the nearly universal position of federal courts that Respondents' interpretation of the 8 U.S.C. § 1225 is incorrect. Respondents cite an outlier decision without applying the facts and rationale to the current case. As argued, the cases are distinguishable. For these reasons, and the reasons contained within the Petition and Traverse, this Court must grant the Habeas Petition and, at minimum, order a substantive bond hearing. Given that Respondents have still failed to address the Fifth Amendment Due Process violation and risk of indefinite detention, Petitioner renews its request for this Court to Order Petitioner go free without delay.

Dated: February 13th, 2026

Respectfully submitted,
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ongoing practice to incorporate and rely on filings that are otherwise unavailable to Petitioner. Respondents are required to analyze and apply their cited cases to the Matter before this Court. They have failed to do so.

[2] There has been no change in Petitioner's circumstances since being released that would disturb ORR's determination. Petitioner has no criminal history and has been residing continuously at the same address since being release. ECF No. 1 at 11, 22-23.