UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANGEL GODINEZ,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Civ. No. 5:26-cv-00510**
	)	
PAMELA JO BONDI,	)	
United States Attorney General;	)	
	)	
KRISTI LYNN NOEM,	)	
Secretary of Homeland Security;	)	
	)	
SYLVESTER M. ORTEGA,	)	
San Antonio Acting Field Office Director	)	
For Detention and Removal, U.S.	)	
Immigration and Customs Enforcement;	)	
and,	)	
	)	
BOBBY THOMPSON,	)	
Warden, South Texas ICE Processing Center;	)	
	)	
in their official capacities;	)	
	)	
Respondents.	)	
	)	

PETITIONER'S REPLY IN SUPPORT OF HIS
PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner, through undersigned counsel, files this his reply to in support of his petition for a writ of habeas corpus. Petitioner submits that he remains eligible for bond notwithstanding the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496 consolidated with No. 25-40701, 2026 WL 323330 (5th Cir. Feb. 6, 2026). As argued below, the Court should grant habeas relief to Petitioner on his constitutional claim. In support of this reply, Petitioner states as follows:

I. Petitioner's detention violates his due process rights under the Fifth Amendment.

The Fifth Circuit did not address the due process question in *Buenrostro*. Indeed, at oral argument, government counsel limited the issue before court to "the statutory question," stating that: "[t]here's not, in other words, a due process claim here."[1] Because the Fifth Circuit addressed only the statutory issue, it did not foreclose any constitutional challenge. As such, this Court should consider the Petitioner's constitutional due process claim and find that her detention violates the Fifth Amendment. *See, e.g., Cumbe Lema v. De Anda-Ybarra, et al,*, No. 3:26-cv-00249-KC (W.D. Tex. Feb. 9, 2026) (recognizing that *Buenrostro-Mendez* does not foreclose a due process claim and granting habeas relief); *Hassen v. Noem, et al.*, No. 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026) (same).

Petitioner has lived in the United States for over 21 years. He does not stand at "the threshold of initial entry." Petitioner has a constitutional right to an individual assessment whether he is a flight or danger for Respondents to continue to detain him pending his removal proceedings.

The Due Process Clause guarantees all persons in the United States the right to "life, liberty, or property, without due process of law. . . ." U.S. Const. amend. V. Noncitizens living in the United States, even when their presence is temporary or unlawful, enjoy the protections of the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). "Freedom from imprisonment– from government custody, detention or other forms

[1] Oral Argument, *Buenrostro-Mendez v. Bondi*, No. 25-20496, at 44:56–45:11 (5th Cir. Feb. 3, 2026), https://www.ca5.uscourts.gov/OralArgRecordings/25/25-20496_2-3-2026.mp3.

of physical restraint–lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. at 695 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

If the Court concludes that the Due Process Clause applies, then it must employ the three-prong test in *Mathews v. Eldridge*, 424 U.S. 319 (1976) to determine whether a civil detention violates a detainee's due process rights. *Addington v. Texas*, 441 U.S. 418, 426 (1979) The three factors courts must consider 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 v. Eldridge*, 424 U.S. at 333.

The private interest involved here is of the highest order: freedom from governmental detention. *Zadvydas v. Davis*, 533 U.S. at 695. "[L]iberty is the norm" in our society "and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). The Supreme Court has counseled courts to be "careful not to minimize the importance and fundamental nature" of a person's liberty rights. *Foucha v. Louisiana*, 504 U.S. at 80.

Thus, notwithstanding his unlawful status in this country, Petitioner has a liberty interest in remaining free from detention. A noncitizen's detention pending their removal proceedings is indistinguishable from criminal incarceration, whether pretrial or after adjudication of guilt. They are behind bars and not free to leave the facility. Their meals and sleeping times are fixed. They can only spend a few hours per day outside in the sun. Their ability to see their family is strictly limited. They are guarded by officers authorized to employ any amount of physical force necessary

for the occasion. These are Petitioner's conditions of confinement and thus, there can be no doubt that he is significantly deprived of his liberty.

The second *Mathews* factor, that is the risk of an erroneous deprivation of a person's liberty interest under the present procedures and the probable value of additional or substitute procedures, weighs in favor of Petitioner. The instant proceedings are civil, not criminal. More than money is at stake; a person's freedom hangs in the balance.

Under current procedures, Respondents have not made an individualized assessment that Petitioner is a flight risk or danger. Thus, the risk that Petitioner will be wrongfully deprived of his liberty is high. A hearing reduces such risk.

The last factor is the Government's interest and the administrative burdens of additional or substitute procedures. Petitioner does not dispute that Respondents have legitimate interests in ensuring that the immigration laws are enforced, that noncitizens appear for their removal proceedings, and in the execution of removal orders. But these interests do not support placing the burden solely on Petitioner.

Respondents already provide immigration custody hearings and so the cost is minimal. Such hearings do not delay the removal process. There is no legitimate governmental interest in detention for its own sake.

Federal district courts in Texas, and in the Western District, have concluded that the due process analysis outlined above applies when the DHS denies a bond hearing to noncitizens, even when detained under § 1225. *See, e.g., Cumbe Lema v. De Anda-Ybarra, et al,*, No. 3:26-cv-00249-KC (W.D. Tex. Feb. 9, 2026) (recognizing that *Buenrostro-Mendez* does not foreclose a due process claim and granting habeas relief); *Hassen v. Noem, et al.*, No. 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026) (same); *Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025)

(concluding that mandatory detention without bond violated procedural due process); *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) (same); *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), *report and recommendation adopted* 2025 WL 3462682 (N.D. Tex. Dec. 2, 2025) (same); *Rojas v. Noem*, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025) (same); *De Leon Hernandez v. Bondi*, 2025 WL 3217037 (W.D. La. Nov. 18, 2025) (same); *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828 (W.D. Tex. Sept. 21, 2025).[2]

Conclusion

For the foregoing reasons, habeas relief remains available, and the Court should grant the Petition for Writ of Habeas Corpus

[2] Respondents' argument that the instant petition should be dismissed because Petitioner did not exhaust his administrative remedies lack merit. Petitioner requested a bond hearing and the immigration judge concluded that the court lacked jurisdiction. ECF Dkt. No. 1-2 (Exh. C to *Pet. for Writ of Habeas Corpus*).

Dated: February 17, 2026

Respectfully submitted,

/s/ Javier N. Maldonado
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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to opposing counsel who is a registered member of this Court's CM/ECF system.

/s/ Javier N. Maldonado
JAVIER N. MALDONADO