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

Jose A. Castillo Guaman,

Petitioner,

v.

Pamela Bondi, *et al.*

Respondents.

Case No.: SA-26-CV-535-OLG

REQUEST FOR CERTIFICATE OF DEFAULT

TO: The Clerk of Court
United States District Court
Western Division of Texas
San Antonio Division

Please enter a default judgement and order in favor of Petitioner Jose A. Castillo Guman pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for Respondent's failure to answer or otherwise defend this action as fully appears from the court file herein and from the attached affirmation by undersigned Counsel.

DATED: February 9, 2026

Respectfully Submitted,

/s/ Brenda M. Villalpando
Brenda M. Villalpando
Bar No. CA # 258976
Villalpando Law Firm, PLLC
1119 N. Virginia St.
El Paso, TX 79902
(915) 307-3496
bvillalpando@villalpandolaw.com
Attorney for Petitioner

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

Jose A. Castillo Guaman,

Petitioner,

v.

Pamela Bondi, *et al.*

Respondents.

Case No.: SA-26-CV-535-OLG

AFFIRMATION IN SUPPORT OF REQUEST FOR CERTIFICATE OF DEFAULT

Undersigned Counsel hereby declares as follows:

1) I represent the Petitioner, Jose A. Castillo Guaman in this action.
2) This Petition for Writ of Habeas Corpus was commenced on January 29, 2026 pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); U.S. Const. art. I, § 9, cl. 2 ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1254a (Dkt. No. 1).
3) On January 30, 2026, the Honorable United States District Court Judge Orlando L. Garcia issued an Order for Service and Ordered Respondents to file answer to the Petition within 5 days after Service (Dkt. No. 3).

4) On January 30, 2026, Petitioner filed proof of certified mail sent to Mary F. Kruger of the United States Attoreny's Office and proof of certified mail sent to the Warden at the South Texas ICE Processing Center in Pearsall, Texas. The Court Order specified that delivery by certified mail return receipt constitutes sufficient service of process (Dkt. No. 4).

5) Respondents, Bamela Bondi, *et al.*, have not answered or otherwise moved with respect to the Petition for Writ of Habeas Corpus, nor have Respondents moved to request additional time to answer to the Petition.

6) The Respondents are not infants or incompetent. Respondents are not presently in the military service of the United States as it appears from facts in this litigation.

7) Petitioner Jose A. Castillo Guman is entitled to default judgment on his Petition for Habeas Corpus. The Petition for Writ of Habeas Corpus requested the issuance of a Bond Hearing before the Executive Office for Immigration Review. The Petition for Writ of Habeas Corpus also requested **all further relief that the Court deems just and proper** (Dkt. No. 1).

I. CONSTITUTIONAL AND DUE PROCESS CLAIMS

8) In *United States v. Buenrostro-Mendez,* No. 25-20496 (5th Cir. Feb. 6, 2026), the Fifth Circuit conducted a limited statutory analysis and held that non-citizens who entered the US illegally are deemed "applicants for admission" under 8 U.S.C. §1225, making them ineligible for bond during removal proceedings. However, the Court did not reach the independent constitutional claims raised. While *Buenrostro-Mendez* forecloses Petitioner's statutory entitlement for a bond determination under § 1226(a), it does not deprive this Court of habeas jurisdiction or resolve Petitioner's case under the Fourth and

Fifth amendments of the US Constitution relating to arrests without warrant and the prolonged or indefinite mandatory detention without any individualized hearing.

9) Considering the recent ruling in *United States v. Buenrostro-Mendez*, Petitioner, through undersigned Counsel, now requests the Court to consider the immediate release of Petitioner under the Fourth and Fifth Amendments of the Constitution of the United States.

A. PLEA FOR RELIEF UNDER THE FOURTH AMENDMEDMENT OF THE US CONSTITUTION

10) The Fourth Amendment protects "[t]he right of the people to be secure in their persons ... against unreasonable searches and seizures." U.S. Const. Amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

11) As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). "Probable cause requires a "substantial probability"; based on facts related to the individual." *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *Id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

12) There is a strong preference that immigration arrests be based on warrants. See *Arizona v. US.*, 567 U.S. 387, 407-08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C.§ 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws and that the person "is likely to escape before a warrant can be obtained," i.e., is a flight risk. *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at 2. Federal regulations track strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

13) Petitioner Jose A. Castillo Guaman was arrested without a warrant on the streets of Minnesota during the Department of Homeland Security's Operation Metro Surge in Minnesota.[1] Petitioner's warrantless arrest occurred without probable cause that he was a flight risk. "Courts have ... made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina v. US. Dep 't of Homeland Sec.,* No. CV 25-3417 (BAH), 2025 WL 3465518, at * 13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Castillo Guaman had a fixed address, had lived in the United States for more than 7 years, and had established significant ties to his community including his US citizen wife and two US citizen children. He fully complied with ICE officers during his arrest. To that end, there was no probable cause that Castillo Guaman would have escaped prior to the production of a warrant.

---

[1] "Operation Metro Surge." is a DHS/ ICE operation in the Twin Cities Metro area are which has resulted in numerous unconstitutional and unlawful detentions, and/or exposure to other unconstitutional abuses committed by DHS/ICE in the Twin Cities metro area and which are on-going.

Since January 1, 2026, DHS/ICE have repeatedly ignored federal court orders in Minnesota directing them to stop unconstitutional detention and abuses. *See* the order of Patrick J. Schiltz, Chief Judge Dist. Of Minn in 26-cv-00107 in which he specifically lists 96 separate instances of ICE/DHS ignoring federal court orders.

14) Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Castillo Guaman. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56-57. He has received no such judicial determination even to date, yet his detention has continued well beyond 48 hours, rendering it presumptively unconstitutional. Regulations also provide that noncitizen arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is "an emergency or other extraordinary circumstance" that requires "an additional reasonable period of time" to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. §§ 236.l(c)(8), 1236.l(c)(8).

15) Upon information and belief, Petitioner Jose A. Castillo Guaman has received no such custody determination by the Department of Homeland Security to date. Upon information and belief, the Department of Homeland Security has to date not provided Petitioner with a Notice to Appear to commence removal proceedings against him, Petitioner's case has not been entered into the Executive Office for Immigration Review (EOIR), and Petitioner has not been scheduled for a removal hearing before an Immigration Judge.

B. PLEA FOR RELIEF UNDER THE FIFTH AMENDMEDMENT OF THE US CONSTITUTION

16) As argued above, Petitioner Jose Castillo Guaman has been in the custody of Department of Homeland Security for over 10 days and still has not been provided with any documentation justifying his detention. Petitioners' ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment.

17) The Department of Homeland Security does not have the authority to hold Petitioner in prolonged civil detention without the issuance of any charging documents and / or and meaningful individualized custody determination conducted by a neutral decisionmaker empowered to order release. Because these protections have not been afforded to Petitioner, he now challenges the lawfulness of the government's detention process as applied to him.

18) The constitutional concerns are heightened here in light of the Fifth Circuit's holding in *Buenrostro-Mendez* which effectively extends mandatory detention without bond or hearing to noncitizens who have lived openly in the United States for significant periods, have accrued equities, and were not detained at the time of initial processing. Petitioner has resided in the US since 2018, Petitioner has a U.S. citizen wife and two U.S. citizen children. Petitioner has an approved I-130 Immediate Relative Petition by his U.S. citizen wife and a pending I-601A waiver before the U.S. Citizenship and Immigration Service.

19) A traditional "arriving alien" detention determination under § 1225(b) historically applied to those apprehended at or near the border or port of entry, where detention was typically brief pending expedited processing. To apply mandatory detention to an individual not

subject to expedited processing, not apprehended at the border, and with significate ties to the United States raises serious liberty interests and concerns under Fifth Amendment of the U.S. Constitution.

20) Petitioner Jose A. Castillo Guaman has strong ties to the U.S. and is entitled to know the allegations of the Department of Homeland Security justifying his detention and / or a hearing before an Immigration Judge. Absent these Constitutional safeguards, his immediate release is just and proper.

WHEREFORE, Petitioner Jose A. Castillo Guaman requests that the default of Respondents be noted and a certificate of default issued. Furthermore, Petitioner Jose A. Castillo Guman requests his immediate release as the Court deems just and proper and in compliance with the protection of the Fourth and Fifth Amendments of the U.S. Constitution.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, and that the remedies proposed are justly due to Petitioner.

DATED: February 9, 2026

Respectfully Submitted,

/s/ Brenda M. Villalpando
Brenda M. Villalpando
Bar No. CA # 258976
Villalpando Law Firm, PLLC
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CERTIFICATE OF DEFAULT

I, _____, Clerk of Court of the United States District Court for the Western District of Texas, do hereby certify that Respondent's Pamela Bondi, *et al.*, has not filed an answer or otherwise moved with respect to the Petition for Writ of Habeas Corpus herein. The default of Respondent, Pamela Bondi, *et al.*, is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: _____

_____
Clerk of Court

By:_____
Deputy Clerk of Court

UNITED STATES DISTRICT COURT
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MOTION FOR DEFAULT JUDGEMENT

Petitioner, Jose A. Castillo Guaman, through undersigned Counsel, hereby moves the Court pursuant to Rule 55(a) of the Federal Rules of Civil Procedure to enter a default judgement in favor of Petitioner and against Respondents Pamela Bondi, *et al.*, on the grounds that said Respondents failed to answer or otherwise defend against the Petition for Writ of Habeas Corpus.

Respectfully Submitted,

/s/ Brenda M. Villalpando
Brenda M. Villalpando
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UNITED STATES DISTRICT COURT
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AFFIRMATION IN SUPPORT OF MOTION FOR DEFAULT JUDGEMENT

Petitioner, Mr. Jose A. Castillo Guaman, through undersigned Counsel, hereby declares as follows:

1) I represent the Petitioner, Mr. Jose A. Castillo Guaman in this action.
2) This Petition for Writ of Habeas Corpus was commenced on January 29, 2026 pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); U.S. Const. art. I, § 9, cl. 2 ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1254a (Dkt. No. 1).
3) On January 30, 2026, the Honorable United States District Court Judge, Orlando L. Garcia issued an Order for Service and Ordered Respondents to file a response to the petition within 5 days after Service (Dkt. No. 3).

4) On January 30, 2026, Petitioner filed proof of certified mail sent to Mary F. Kruger of the United States Attoreny's Office and the Warden at the South Texas ICE Processing Center in Pearsall, Texas. The Court Order specified that delivery by certified mail return receipt constitutes sufficient service of process (Dkt. No. 4).

5) Respondents, Bamela Bondi, *et al.*, have not answered or otherwise moved with respect to the Petition for Writ of Habeas Corpus, nor have Respondents moved to request additional time to answer to the Petition.

6) The Respondents are not infants or incompetent. Respondents are not presently in the military service of the United States as it appears from facts in this litigation.

7) **That Respondents Pamela Bondi, et al., default has been noted by the Clerk of Court. A copy of the Certificate is attached hereto.**

8) Petitioner Jose A. Castillo Guman is entitled to default judgment on his Petition for Habeas Corpus. The Petition for Writ of Habeas Corpus requested the issuance of a Bond Hearing before the Executive Office for Immigration Review (Dkt. No. 1).

9) The Petition for Writ of Habeas Corpus also requested **all further relief that the Court deems just and proper** (Dkt. No. 1).

I. CONSTITUTIONAL AND DUE PROCESS CLAIMS

10) In *United States v. Buenrostro-Mendez,* No. 25-20496 (5th Cir. Feb. 6, 2026), the Fifth Circuit conducted a limited statutory analysis and held that non-citizens who entered the US illegally are deemed "applicants for admission" under 8 U.S.C. §1225, making them ineligible for bond during removal proceedings. However, the Court did not reach the independent constitutional claims raised. While *Buenrostro-Mendez* forecloses Petitioner's statutory entitlement for a bond determination under § 1226(a), it does not

deprive this Court of habeas jurisdiction or resolve Petitioner's case under the Fourth and Fifth amendments of the US Constitution relating to arrests without warrant and the prolonged or indefinite mandatory detention without any individualized hearing.

11) Considering the recent ruling in *United States v. Buenrostro-Mendez*, Petitioner, through undersigned Counsel, now requests the Court to consider the immediate release of Petitioner under the Fourth and Fifth Amendments of the Constitution of the United States.

A. PLEA FOR RELIEF UNDER THE FOURTH AMENDMEDMENT OF THE U.S. CONSTITUTION

12) The Fourth Amendment protects "[t]he right of the people to be secure in their persons ... against unreasonable searches and seizures." U.S. Const. Amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

13) As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). "Probable cause requires a "substantial probability"; based on facts related to the individual." *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *Id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or

other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

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15) Petitioner Jose A. Castillo Guaman was arrested without a warrant on the streets of Minnesota during the Department of Homeland Security's Operation Metro Surge in Minnesota.[2] Petitioner's warrantless arrest occurred without probable cause that he was a flight risk. "Courts have ... made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina v. US. Dep 't of Homeland Sec.,* No. CV 25-3417 (BAH), 2025 WL 3465518, at * 13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Castillo Guaman had a fixed address, had lived in the United States for more than 7 years, and had established significant ties to his community including his US citizen wife and two US citizen children. He fully complied with ICE

[2] "Operation Metro Surge." is a DHS/ ICE operation in the Twin Cities Metro area are which has resulted in numerous unconstitutional and unlawful detentions, and/or exposure to other unconstitutional abuses committed by DHS/ICE in the Twin Cities metro area and which are on-going.

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officers during his arrest. To that end, there was no probable cause that Castillo Guaman would have escaped prior to the production of a warrant.

16) Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Castillo Guaman. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56-57. He has received no such judicial determination even to date, yet his detention has continued well beyond 48 hours, rendering it presumptively unconstitutional. Regulations also provide that noncitizen arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is "an emergency or other extraordinary circumstance" that requires "an additional reasonable period of time" to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. §§ 236.l(c)(8), 1236.l(c)(8).

17) Upon information and belief, Petitioner Jose A. Castillo Guaman has received no such custody determination by the Department of Homeland Security to date. Upon information and belief, the Department of Homeland Security has to date not provided Petitioner with a Notice to Appear to commence removal proceedings against him, Petitioner's case has not been entered into the Executive Office for Immigration Review (EOIR), and Petitioner has not been scheduled for a removal hearing before an Immigration Judge.

B. PLEA FOR RELIEF UNDER THE FIFTH AMENDMEDMENT OF THE US CONSTITUTION

18) As argued above, Petitioner Jose Castillo Guaman has been in the custody of Department of Homeland Security for over 10 days and still has not been provided with any documentation justifying his detention. Petitioners' ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment.

19) The Department of Homeland Security does not have the authority to hold Petitioner in prolonged civil detention without the issuance of any charging documents and / or and meaningful individualized custody determination conducted by a neutral decisionmaker empowered to order release. Because these protections have not been afforded to Petitioner, he now challenges the lawfulness of the government's detention process as applied to him.

20) The constitutional concerns are heightened here in light of the Fifth Circuit's holding in *Buenrostro-Mendez* which effectively extends mandatory detention without bond or hearing to noncitizens who have lived openly in the United States for significant periods, have accrued equities, and were not detained at the time of initial processing. Petitioner has resided in the US since 2018, Petitioner has a U.S. citizen wife and two U.S. citizen children. Petitioner has an approved I-130 Immediate Relative Petition by his U.S. citizen wife and a pending I-601A waiver before the U.S. Citizenship and Immigration Service.

21) A traditional "arriving alien" detention determination under § 1225(b) historically applied to those apprehended at or near the border or port of entry, where detention was typically brief pending expedited processing. To apply mandatory detention to an individual not subject to expedited processing, not apprehended at the border, and with significate ties

to the United States raises serious liberty interests and concerns under Fifth Amendment of the U.S. Constitution.

22) Petitioner Jose A. Castillo Guaman has strong ties to the U.S. and is entitled to know the allegations of the Department of Homeland Security justifying his detention and / or a hearing before an Immigration Judge. Absent these Constitutional safeguards, his immediate release is just and proper.

WHEREFORE, Petitioner Jose A. Castillo Guaman requests that the default of Respondents be noted and a certificate of default issued. Furthermore, Petitioner Jose A. Castillo Guman requests his immediate release as the Court deems just and proper and in compliance with the protection of the Fourth and Fifth Amendments of the U.S. Constitution.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, and that the remedies proposed are justly due to Petitioner.

DATED: February 9, 2026

Respectfully,

/s/ Brenda M. Villalpando

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Case No.: SA-26-CV-535-OLG

AFFIRMATION OF SERVICE

I, Counsel for Petitioner, Mr. Jose A. Castillo Guaman, declare under penalty of perjury that I have served a copy of the attached Motion for Default Judgment and related filings upon Respondents Pamela Bondi, et al., by [service].

_____

_____

_____.

DATED: February 9, 2026

Respectfully,

/s/ Brenda M. Villalpando
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