

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

OTONIEL CASAS-MONDRAGON,

Petitioner,

CHARLOTTE COLLINS, *et al*

Respondents.

Case No. 1:26-cv-00231-RP

SUPPLEMENTAL BRIEFING

Petitioner recognizes the Fifth Circuit's precedential decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026) issued on February 6, 2026 resolves Petitioner's statutory claim. "However, *Buenrostro-Mendez* [sic] does not change this case's outcome on procedural due process grounds." *Hassen v. Noem*, No. EP-26-CV-00048-DB, at 4, n.1 (W.D. Tex. Feb. 9, 2026). Critically, *Buenrostro-Mendez* addressed only statutory construction—it did not examine any constitutional challenge to the mandatory detention policy. When the application of 8 U.S.C. § 1225(b)(2) is examined in the context of Petitioner's specific circumstances—his ten-year presence in the United States and significant family ties—it is clear that his detention violates the Fifth Amendment's guarantee of due process.

THE APPLICATION OF 1225(b)(2) TO PETITIONER VIOLATES DUE PROCESS

"Freedom from imprisonment -- from government custody, detention, or other forms of physical restraint -- lies at the heart of the liberty that [the due process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Supreme Court has repeatedly affirmed that "[i]n our society liberty is the norm,

and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987); *see also Foucha*, 504 U.S. at 80, 112 S.Ct. 1780 (“We have always been careful not to minimize the importance and fundamental nature of the individual's right to liberty.”). For this reason, “civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections.” *Addington v. Texas*, 441 U.S. 418, 425 (emphasis added).

Importantly, “*Thuraissigiam* does not foreclose [Petitioner’s] due process claims.” *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7 (W.D. Tex. Oct. 21, 2025) (citations omitted). There are “two key points of distinction between *Thuraissigiam* and [Petitioner’s] case.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 682 (W.D. Tex. 2025). First, “Unlike Petitioner in *Thuraissigiam*, [Mr. Casas-Mondragon] does not challenge the admission process in any way or assert a right to remain in the United States. He merely seeks a chance to apply for release...[and] [n]othing in *Thuraissigiam* suggests [he] lacks such a due process right.” *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *8 (W.D. Tex. Oct. 21, 2025). A “second key point of distinction is that *Thuraissigiam* was stopped by Border Patrol ‘within twenty-five yards of the border,’ immediately detained, and never released.” *Id.* In stark contrast, Petitioner has lived in the U.S. for ten years prior to his detention. “[A]liens who have once passed through our gates, even illegally,” are afforded the full panoply of procedural due process protections, and “may be expelled only after proceedings conforming to traditional standards of fairness.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). “Th[is] distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

While “detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process...the fact that some detention is permissible does not change the fact that a detainee suffers significant liberty deprivations.” *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) (citing *Demore*, 538 U.S. at 522). “Moreover, the government’s exercise of its power to detain immigrants pending removal ‘is subject to important constitutional limitations.’” *Id.* at 28-29 (citing *Zadvydas*, 533 U.S. at 695). “That is because due process “applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 29 (citing *Zadvydas*, 533 U.S. at 693 and *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (explaining that due process “protects every [person]...Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection”)).

In the immigration detention context, due process requires that immigration detention “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas*, 533 U.S. at 690). Specifically, immigration detention must be reasonably related to the government’s goals of preventing flight and protecting the community from harm, and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is “the guarantee of an impartial and disinterested tribunal,” which the Due Process Clause requires “in both civil and criminal cases.” *Marshall v. Jerico, Inc.*, 446 U.S. 238, 242 (1980).

“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 (1976).” *Martinez v.*

Noem, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). 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.

Across the country, District Courts— including all four Texas District Courts— have repeatedly sustained as-applied due process challenges to § 1225(b)(2) on facts closely analogous to Petitioner’s. In Texas alone, these include:¹ *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025) (**Briones, D.**) (“In sum, Section 1225(b)(2) as applied to Petitioner violates his Fifth Amendment Due Process rights.”); *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, at *3 (W.D. Tex. Oct. 21, 2025) (**Cardone, K.**) (“the Court does not reach the statutory interpretation question because, assuming without finding that the Government’s new interpretation is correct, Gonzalez Martinez is entitled to due process and succeeds in his as-applied challenge.”); *Ortega-Aguirre v. Noem*, No. 4:25-CV-04332, 2025 WL 3684697, at *3 (S.D. Tex. Oct. 10, 2025) (**Bennet, A.**) (“Here, the Court finds that Petitioner is likely to prevail on the merits of his due process claim because he ‘has been detained since August of 2025 without any individualized assessment of flight risk or dangerousness.’”); *Cruz-Reyes v. Bondi*, 5:26-CV-60, 2026 WL 332315, at *3 (S.D. Tex. Feb. 3,

¹ Numerous District Courts in other states have also sustained as-applied due process challenges to § 1225(b)(2) in cases involving long-term residents. *See, e.g., Diaz v. Kaiser*, No. 25-CV-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (finding detention without bond violates due process and collecting California cases reaching the same result); *Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (adopting magistrate’s finding that § 1225(b)(2) violated due process and ordering immediate release); *Duran Avalos v. Bondi*, No. C25-4063-LTS-KEM, 2025 WL 3530162, at *4 (N.D. Iowa Dec. 9, 2025) (“his continued detention without the opportunity to post bond violates his substantive due process rights”); *Sanchez Alvarez v. Noem*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025). A comprehensive accounting of such decisions would occupy multiple additional pages.

2026) (**Saldaña, D.**) (“The imposition of mandatory detention under § 1225(b)(2) on Mr. Cruz Reyes, a long-term resident who was arrested in the interior of the United States...violates the most basic principles of due process.”); *Cordova v. Noem*, No. 3:26-CV-97-K-BN, 2026 WL 218938, at *3 (N.D. Tex. Jan. 28, 2026) (**Kinkeade, E.**) (“the Court holds that denying Petitioner a bond hearing under § 1225(b)(2) deprives him of procedural due process protections under the Fifth Amendment.”); *Camacho-Gutierrez v. Thompson*, No. 5:25-CV-01876-MA, 2026 WL 195758, at *5 (W.D. Tex. Jan. 16, 2026) (**Alvarez, M.**) (“the Court finds that Petitioner's detention without any notice or an individualized assessment deprives her of the constitutional right to procedural due process”); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025) (**Pulliam, J.**) (“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.”); *Blanco v. Bondi*, No. 5-25-CV-01412-FB-RBF, 2025 WL 3908488, at *6 (W.D. Tex. Dec. 30, 2025), report and recommendation adopted sub nom. *Betancourt Blanco v. Bondi*, No. SA-25-CV-01412-FB, 2026 WL 78204 (W.D. Tex. Jan. 9, 2026) (**Biery, F.**) (finding that government’s position “is troubling and stands in considerable tension with fundamental due process guarantees.”); *George v. Noem*, No. 3:25-CV-2935-S-BW, 2025 WL 3852946, at *4 (N.D. Tex. Dec. 19, 2025), report and recommendation adopted, No. 3:25-CV-02935-S-BW, 2026 WL 30829 (N.D. Tex. Jan. 5, 2026) (**Gren Scholer, K.**) (“detaining Villantes George without a bond hearing violates his Fifth Amendment rights.”).

Most notably, even after *Buenrostro-Mendez*, the Western District of Texas has continued to grant habeas relief on Due Process grounds. See, e.g., *Hassen v. Noem*, No. EP-26-CV-00048-DB, at 4, n.1 (W.D. Tex. Feb. 9, 2026) (“*Buenrostro-Mendez* [sic] does not

change this case's outcome on procedural due process grounds."); *Clemente Ceballos v. Garite*, 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026) (same); *Aguila v. Warden*, EP-26-CV-241-KC at 3-4 (W.D. Tex. Feb. 9, 2026) ("The Court's conclusion is not changed by the Fifth Circuit's recent decision in *Buenrostro-Mendez*...*Buenrostro-Mendez* has no bearing on this Court's determination of whether Duran Aguila is being detained in violation of his constitutional right to procedural due process.")

All three *Mathews* factors weigh in Petitioner's favor. First, "Because he spent [ten years] at liberty in the United States, [Petitioner] possesses a cognizable interest in his freedom from detention." *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *9 (W.D. Tex. Oct. 21, 2025). This interest "deserves great weight and gravity." *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025) (citations omitted).

Second, the risk of erroneous deprivation—that is, the risk that an individual will remain detained despite that detention bearing no reasonable relationship to the government's legitimate goals of preventing flight and protecting community safety—was examined at length by the First Circuit in *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28–31 (1st Cir. 2021). There, the First Circuit concluded that bond hearings that placed the burden on the detained noncitizen inherently carried a high risk of error for five reasons: (1) detainees are not provided counsel and often cannot obtain counsel; (2) detainees experience great difficulty obtaining evidence; (3) detainees often lack full proficiency in English; (4) immigration law and procedures and judge preferences are likely much better known to government representatives than to detainees; and (5) the inherent difficulty in proving a negative. *Id.* The Court explained that the case before it "evidences how the allocation of the burden of proof can affect the likelihood of such error. With a record of

employment, family relations, a settled place in the community, and no arrests, Hernandez would seem to have been a good candidate for conditional release on bail.” *Id.* at 31. Yet she was denied bond. The Court concluded that due process required that the burden be placed on the government in § 1226(a) bond proceedings.

If the risk of erroneous deprivation is already high in a standard § 1226(a) bond hearing—where the detainee at least has an opportunity to be heard—then the risk must be exponentially greater under § 1225(b)(2), which deprives Petitioner of *any* opportunity whatsoever to contest the reasonableness of his continued detention. “The risk lies in the automatic continued deprivation of liberty for a noncitizen.” *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025). Accordingly, this factor strongly favors Petitioner and compels Court intervention that can actually address the risk of error.

On the final factor, “Respondents, of course, have a generalized interest in ensuring noncitizens appear for their removal hearings and do not pose a risk to the communities in which they live.” *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025) “But these interests do not justify indefinite detention without any individualized assessment of whether Petitioner actually poses a flight risk or danger. To the extent the Government asserts an interest in avoiding “the incremental cost resulting from the increased number of hearings,” that argument is unavailing: “such costs cannot be terribly burdensome, given Respondents’ concession that the Government conducted them for decades until its reinterpretation of the law earlier this year.” *Id.* (citations omitted). And of course, his release would save the government a significant financial expenditure incurred from Petitioner’s detention. The third *Mathews* factor therefore weighs in Petitioner’s favor.

Applied to Petitioner's circumstances, the *Mathews* analysis compels relief. Petitioner has resided in the United States for ten years, is steadily employed, and has significant family ties—including a U.S. citizen wife and infant child. Under these circumstances, the Government cannot demonstrate that continued mandatory detention without any individualized assessment serves its interests in preventing flight or protecting the community.

AVAILABLE REMEDIES

"Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). "In recent months, courts across the country have ordered the release of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) **(given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing)**. (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *Cruz-Reyes v. Bondi*, 5:26-CV-60, 2026 WL 332315, at *13 (S.D. Tex. Feb. 3, 2026) ("due process concerns weigh heavily in favor of granting immediate release."); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025). *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025)("Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of [Petitioner's] due process rights through her continued detention.") Further, given the overwhelming evidence of EOIR institutional capture, giving EOIR the power to decide his liberty does not cure the due process violation; it is a remedy in

name only— one that perpetuates rather than corrects the constitutional violation. And a remedy in name only is no remedy at all. *See* ECF No. 1, Petition at 7-15, ECF No. 1, Exhibit B (Attorney Declarations).

In the alternative, if the Court determines that some custody determination is warranted, the Court should order a bond hearing, *but with additional safeguards*. **First**, the Government should bear the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or is a flight risk to “[reflect] the concern that ‘[b]ecause the alien’s potential loss of liberty is so severe ... he should not have to share the risk of error equally.’” *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (also noting that “as of 2020, the ‘vast majority’—an ‘overwhelming consensus’—of courts granting immigration detainees’ habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk”). This is also consistent with the Supreme Court’s civil detention jurisprudence, where it has always required the government to bear the burden of proof. *Addington v. Texas*, 441 U.S. 418, 433 (1979) (holding that in civil commitment proceedings, the government’s burden of proof must be “equal to or greater than the ‘clear and convincing’ standard” to meet due process guarantees.) **Second**, the Court should require the immigration judge to set forth with specificity the factual and legal bases for any danger or flight risk determination. This safeguard is warranted in light of the compelling evidence previously submitted concerning the immigration court’s transformation into a compromised adjudicatory body. *See* ECF No. 1, Petition at 7-15, ECF No. 1, Exhibit D (Attorney Declarations). **Third**, for the same reason, the Court should retain jurisdiction to review the immigration judge bond decision to ensure compliance with the court’s order and due process. **Fourth**, the Court should prohibit the government from invoking the automatic stay

provisions under 8 C.F.R. § 1003.19(i)(2) because courts have ruled that their application violates the procedural due process rights of noncitizens granted bond. *See, e.g. Gutierrez v. Thompson*, No. 4:25-4695, 2025 WL 3187521, at *8 (S.D. Tex. Nov. 14, 2025).

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and order his immediate release from custody. *Buenrostro-Mendez* resolved a question of statutory construction; it did not address—much less foreclose—the constitutional challenge Petitioner raises here. Petitioner’s ten years of uninterrupted presence in the United States and his deep family ties establish that his mandatory detention without any individualized assessment of flight risk or dangerousness violates the Fifth Amendment. The overwhelming weight of authority in this District and across the country confirms that result. In the alternative, should the Court determine that some form of custody review is appropriate, Petitioner requests a bond hearing with the procedural safeguards set forth above.

Respectfully submitted,

/s/ Lucia Curiel
Lucia Curiel, Esq.
The Law Office of Mark Kinzler, P.C.
PO Box 684309
Austin, TX 78768
(512) 402-7999
lucia@kinzlerimmigration.com
Attorney for Petitioner

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