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

Rafael Isaac Guardado Parrales, Petitioner v. Bobby Thompson, et al., Respondents,	§ § § § § § § § §	Civil Action No. 5:26-cv-00585-FB

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE

Petitioner respectfully submits this reply to Respondents' response.

I. INTRODUCTION

Respondents mischaracterize both this case and Buenrostro-Mendez v. Bondi, 2026 WL 323330 (5th Cir. Feb. 6, 2026). The Fifth Circuit explicitly held that constitutional challenges to prolonged detention under §1225(b)(2)(A) were "wholly speculative" in that case because the petitioners had been detained for only three and four months respectively. Id. at *10. The court noted it was "not confronted with" questions about "the outer bounds" of detention duration or circumstances where detention might become constitutionally problematic. Id.

Petitioner's case presents precisely what Buenrostro did not: concrete constitutional violations arising from the application of §1225(b)(2)(A) to a person who has resided in the United States for 22 years, established deep family and community ties, and now faces indefinite detention without any individualized determination of flight risk or danger.

This case does not challenge whether ICE has statutory authority under §1225(b)(2)(A) to detain certain categories of noncitizens. Rather, it challenges whether the Constitution permits

applying that statute to detain Petitioner indefinitely without any process whatsoever, despite overwhelming evidence that detention serves no legitimate government interest in his specific circumstances.

II. BUENROSTRO DID NOT FORECLOSE AS-APPLIED CONSTITUTIONAL CHALLENGES

The Fifth Circuit's decision in Buenrostro addressed facial statutory challenges and explicitly reserved judgment on as-applied constitutional claims. The court stated: "The petitioners claim the government has essentially detained them indefinitely. But any constitutional concerns about the prolonged detention of 'applicants for admission' under §1225(b)(2) are wholly speculative at this juncture given that the petitioners have only been detained for three and four months, respectively." Id. at *10 (emphasis added).

This language is critical. The Fifth Circuit did not hold that all constitutional challenges to detention under §1225(b)(2)(A) fail as a matter of law. It held only that the specific constitutional concerns raised by petitioners who had been detained for three to four months were "speculative" because those petitioners had not yet been detained long enough to present a concrete constitutional injury.

The court made clear it was addressing a narrow question: "whether mandatory detention under §1225(b)(2)(A) is facially unconstitutional when considered in the abstract." Id. at *10. It was not addressing what the Fifth Circuit called "empirical questions about the outer bounds of how the government should implement §1225(b)(2)." Id. Those questions, the court held, must "be tested through as-applied challenges." Id. (emphasis added).

Petitioner brings precisely such an as-applied challenge. He does not contend that §1225(b)(2)(A) can never constitutionally be applied to anyone under any circumstances. He contends that applying mandatory indefinite detention to his specific circumstances violates the Fifth Amendment's guarantee of due process.

III. PETITIONER'S CIRCUMSTANCES PRESENT CONCRETE CONSTITUTIONAL VIOLATIONS

A. Twenty-Two Years of Continuous Residence Distinguishes This Case

Petitioner entered the United States in 2004 and has resided here continuously for 22 years. During those 22 years, he established deep roots in this country, including family ties, employment history, and community connections. The constitutional significance of this extended presence cannot be overstated.

The Supreme Court has recognized that the Due Process Clause "applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas v. Davis, 533 U.S. 678, 693 (2001). While the government may categorize Petitioner as an "applicant for admission" for purposes of determining which removal procedures apply, that legal classification does not eliminate his constitutional protections after 22 years of continuous residence.

The government's position would permit indefinite detention without any hearing for someone who has lived in the United States for more than two decades, raised a family here, and established himself as a productive member of society. The Constitution does not permit such categorical detention divorced from any individualized assessment of whether detention serves a legitimate purpose.

B. Prolonged Detention Without Individualized Determination Violates Substantive Due Process

The Supreme Court has consistently held that indefinite or prolonged civil detention raises "serious constitutional concerns." Zadvydas, 533 U.S. at 690. To avoid these concerns, the Court has "read an implicit limitation" into immigration detention statutes requiring individualized determinations and temporal limits. Id. at 689.

The Supreme Court identified six months as a "presumptively reasonable period" for immigration detention. Id. at 701. Petitioner has already been detained for over a month and faces continued detention for an indefinite additional period—potentially 9-24 months or longer as his removal proceedings proceed through the immigration court and potential appeals to the Board of Immigration Appeals.

More critically, Petitioner faces indefinite detention without any opportunity to demonstrate that continued detention serves no legitimate purpose. The only constitutionally permissible bases for civil detention are preventing flight and protecting public safety. United States v. Salerno, 481 U.S. 739, 748 (1987). Petitioner has had no opportunity whatsoever to show any neutral decision-maker that he presents neither risk.

C. Petitioner Has Substantial Equities Demonstrating No Flight Risk or Danger

The record demonstrates substantial equities that establish Petitioner poses no flight risk or danger to the community:

First, Petitioner has resided continuously in the United States for 22 years. This alone demonstrates extraordinary ties to this country that make flight highly unlikely.

Second, Petitioner has immediate family members who are U.S. citizens or lawful permanent residents, including his spouse and children who depend on him for financial and emotional support.

Third, Petitioner has maintained stable employment throughout his time in the United States, demonstrating responsibility and community ties.

Fourth, Petitioner has no criminal history whatsoever, neither in the United States nor in his country of origin.

Fifth, Petitioner has a permanent sponsor who will provide housing and ensure his appearance at all immigration proceedings.

These circumstances demonstrate conclusively that Petitioner poses no flight risk or danger to the community. When all available evidence establishes that detention serves neither constitutionally permissible purpose, continued detention cannot satisfy constitutional scrutiny.

D. Complete Deprivation of Process Violates Procedural Due Process

Even if some period of mandatory detention were constitutionally permissible, the complete absence of any process violates the Fifth Amendment. Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), courts balance three factors: the private interest at stake, the risk of erroneous deprivation, and the government's interest.

Each factor weighs overwhelmingly in favor of providing process:

First, Petitioner's liberty interest is among the most fundamental protected by the Constitution. Foucha v. Louisiana, 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause."). After 22 years in

the United States, Petitioner's liberty interest includes not merely physical freedom but also his ability to remain with his family and continue his life in the only country he has known as an adult.

Second, the risk of erroneous deprivation here is not merely substantial, it is total. Respondents have made zero individualized determination about Petitioner. The detention is purely categorical, based solely on his legal classification as someone who entered without inspection 22 years ago, without any consideration of his individual circumstances, ties, or lack of flight risk. A hearing before a neutral decision-maker would dramatically reduce this risk at minimal cost.

Third, the government's interests, preventing flight and protecting public safety, are not served by detaining someone who has lived peacefully and productively in the United States for over two decades. Petitioner's 22-year history of compliance and community integration directly contradicts any claim that detention is necessary to ensure his appearance or protect public safety.

At minimum, due process requires notice of the reasons for continued detention, an opportunity to present evidence that Petitioner is neither a flight risk nor a danger to the community, a hearing before a neutral decision-maker, and authority in that decision-maker to order release on bond or conditions if Petitioner meets his burden.

Respondents have provided none of these protections. This complete deprivation of process violates the Fifth Amendment.

E. Equal Protection Concerns

The Due Process Clause incorporates equal protection principles applicable to federal government action. Bolling v. Sharpe, 347 U.S. 497, 499 (1954). Equal protection requires that the government treat similarly situated individuals alike absent a rational basis for differential treatment.

Consider two individuals: Petitioner, who entered without inspection in 2004 and has resided continuously in the United States for 22 years with U.S. citizen family members and no criminal history; and a noncitizen who entered lawfully in 2020 but overstayed a visa by four years and has identical equities. These two individuals are identically situated in all relevant respects regarding flight risk and danger to the community.

Yet the government treats them fundamentally differently. The visa overstay receives detention under §1226(a) with a bond hearing before an immigration judge who makes an individualized determination of flight risk and danger. If the noncitizen proves he is not a flight risk or danger, the judge may order release on bond. In contrast, Petitioner receives mandatory detention under §1225(b)(2)(A) with no hearing and no possibility of release on bond.

This differential treatment is based solely on the manner of entry decades ago—a factor that bears no rational relationship to the government's stated interests in preventing flight and protecting public safety. The manner of entry in 2004 tells us nothing about current flight risk or danger in 2026, which is why individualized assessments are constitutionally required.

IV. EXHAUSTION IS NOT REQUIRED FOR CONSTITUTIONAL CHALLENGES TO CUSTODY

Respondents contend Petitioner must exhaust administrative remedies by seeking review before the Board of Immigration Appeals. This argument fails for multiple reasons.

First, Petitioner challenges the constitutional application of §1225(b)(2)(A) to his circumstances. Such constitutional challenges to the fact of custody are cognizable in habeas corpus and do not require administrative exhaustion. The Supreme Court has never required exhaustion of constitutional challenges to unlawful detention. To the contrary, the writ of habeas corpus exists precisely to provide a judicial forum for challenges to unlawful custody.

Second, exhaustion would be futile. The BIA's decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), already holds that immigration judges lack authority to conduct bond hearings for persons detained under §1225(b)(2)(A). Requiring Petitioner to seek relief from the BIA that the BIA has already declared unavailable would serve no purpose.

Third, exhaustion would cause irreparable harm. Each day of unlawful detention causes constitutional injury that cannot be remedied through money damages. Requiring Petitioner to pursue months of administrative appeals while suffering ongoing constitutional violations would defeat the purpose of habeas corpus.

The cases Respondents cite address exhaustion of administrative remedies for discretionary bond determinations or other forms of administrative relief. They do not stand for the proposition that constitutional challenges to unlawful custody must be exhausted before federal courts may address them.

V. DUE PROCESS PROTECTIONS EXTEND TO ALL PERSONS WITHIN THE UNITED STATES

Respondents cite Department of Homeland Security v. Thuraissigiam, 140 S. Ct. 1959 (2020), for the proposition that noncitizens are entitled only to whatever process Congress chooses to provide. This misreads both Thuraissigiam and established Supreme Court precedent.

Thuraissigiam addressed the Suspension Clause and whether an asylum seeker apprehended 25 yards from the border could challenge expedited removal through habeas corpus. The Court held that the limited statutory review Congress provided satisfied the Suspension Clause for noncitizens in that specific context. Id. at 1982.

But Thuraissigiam expressly reaffirmed that the Due Process Clause "applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." Id. at 1980 (quoting Zadvydas, 533 U.S. at 693). The Court made clear that due process protections are not limited to whatever process Congress chooses to provide.

Moreover, Petitioner's case is readily distinguishable from Thuraissigiam. He is not challenging expedited removal within 25 yards of the border with minimal U.S. contacts. He has resided in the United States for 22 years, established a family here, maintained continuous employment, and has deep ties to this country. These circumstances trigger full due process protections, not the attenuated protections applicable at the border.

The Fifth Circuit has consistently recognized that noncitizens in the interior of the United States are entitled to due process protections. The question is not whether due process applies, but what process is due. Under Mathews v. Eldridge, the answer is clear: at minimum, Petitioner is entitled to a hearing before a neutral decision-maker with authority to order release if he demonstrates he is neither a flight risk nor a danger.

VI. RESPONDENTS' CITATION TO DISTRICT COURT DECISIONS IS NOT PERSUASIVE

Respondents cite dozens of district court decisions from other circuits addressing statutory authority under §1225(b)(2)(A). These decisions are not binding on this Court and do not address the specific constitutional circumstances Petitioner presents.

More critically, none of these decisions addresses a petitioner who has resided continuously in the United States for 22 years with deep family and community ties. The constitutional concerns raised by categorical detention of someone with Petitioner's extraordinarily long residence and established ties are fundamentally different from concerns about initial detention at the border or detention of individuals with shorter periods of residence.

Indeed, one of the cases Respondents cite actually supports Petitioner's position. In Candido v. Bondi, the court noted that the petitioner had "lived illegal within the United States since 2004"—the same year Petitioner entered. The fact that courts are applying §1225(b)(2)(A) to individuals with two decades of continuous residence demonstrates precisely the constitutional problem Petitioner raises: categorical detention without any consideration of individual circumstances, no matter how compelling.

VII. RESPONDENTS' FOURTH AMENDMENT ARGUMENT MISCONSTRUES THE PETITION

Respondents argue that Petitioner's Fourth Amendment claims should be dismissed as non-habeas claims requiring a separate filing fee. ECF No. 6 at 11-12. This argument mischaracterizes Petitioner's claims.

Petitioner does not assert freestanding Fourth Amendment claims seeking damages or other non-habeas relief. Rather, Petitioner asserts that his warrantless interior arrest and

continued detention violate the Fourth Amendment in a manner that renders his custody unlawful. This is quintessentially a habeas claim challenging the fact and legality of custody.

The Supreme Court has made clear that habeas corpus is the proper vehicle for challenges to the legality of custody, including challenges based on constitutional violations. Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). When a petitioner challenges "the very fact or duration of his physical imprisonment" based on Fourth Amendment violations that render the initial seizure and continued custody unlawful, that challenge is properly brought via habeas corpus.

Petitioner seeks release from custody based on constitutional violations—precisely the relief habeas corpus is designed to provide. The Fourth Amendment claims are not separate civil rights claims but rather constitutional grounds supporting habeas relief.

VIII. RESPONDENTS' ARGUMENTS REGARDING INJUNCTIVE RELIEF FAIL

Respondents argue that Petitioner is not entitled to injunctive relief. This argument fails because it rests entirely on the merits arguments Respondents make regarding §1225(b)(2)(A). Those arguments that fail for all the reasons stated above.

Moreover, the traditional factors for injunctive relief weigh heavily in Petitioner's favor:

First, Petitioner is likely to succeed on the merits of his as-applied constitutional challenge for all the reasons stated in this reply and in Petitioner's original petition.

Second, Petitioner suffers irreparable harm each day he remains in unlawful custody. The Fifth Circuit recognizes that loss of liberty constitutes irreparable harm. Texas v. United States, 809 F.3d 134, 155-56 (5th Cir. 2015).

Third, the balance of equities favors Petitioner. The government has no legitimate interest in continuing to detain someone who poses no flight risk or danger to the community. Petitioner's 22 years of continuous residence and deep family ties demonstrate that he will appear for all proceedings if released.

Fourth, the public interest favors constitutional compliance. The Fifth Circuit holds that the public interest favors constitutional compliance. Jackson Women's Health Org. v. Currier, 760 F.3d 448, 458 (5th Cir. 2014).

IX. CONCLUSION

Buenrostro-Mendez addressed whether §1225(b)(2)(A)'s mandatory detention provision is facially unconstitutional in the abstract. It did not address, and explicitly reserved, questions about applying that statute to specific circumstances where detention becomes constitutionally problematic.

Petitioner's circumstances present precisely the as-applied challenge the Fifth Circuit anticipated. He is not "speculatively" detained—he has been detained for over a month with indefinite additional detention ahead. He is not someone whose flight risk or danger is unknown—he has lived peacefully and productively in the United States for 22 years with deep family and community ties. He is not someone seeking a discretionary benefit—he is seeking the fundamental constitutional protection against indefinite detention without any process.

The Constitution does not permit the government to detain someone for months or years without any hearing, based purely on categorical classification, regardless of how compelling the individual's equities or how obvious the lack of any legitimate detention purpose. This is

especially true when the person has resided in the United States for over two decades and established the kind of deep ties that Petitioner has.

For all the reasons stated in Petitioner's original petition and this reply, the Court should grant the writ of habeas corpus.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On February 12, 2026 Counsel for Plaintiff served a copy of the attached document via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States, at usatxw.civil.immigration.notices@usdoj.gov.

/S/ Matthew Mendez
Matthew Mendez

02/12/2026
Date