

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JUAN MENJIVAR ARAUJO	§	
	§	
<i>Petitioner,</i>	§	
	§	
vs.	§	Civ. Case No. 1:26-cv-00237-ADA-SH
	§	
PAMELA BONDI,	§	
United States Attorney General; et al.	§	
	§	
<i>Respondents.</i>	§	
	§	

PETITIONER’S RULE 59(e) MOTION TO ALTER OR AMEND JUDGMENT

Petitioner Juan Menjivar Araujo respectfully moves under Federal Rule of Civil Procedure 59(e) to alter or amend the Court’s March 2, 2026 Order denying his Petition for Writ of Habeas Corpus. ECF No. 7.

This motion is narrow. Petitioner does not ask the Court to revisit *Buenrostro-Mendez v. Bondi*’s holding on the statutory detention question. He recognizes that, under *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), his argument that 8 U.S.C. § 1226(a) governs his custody is presently foreclosed in this Circuit. He preserves that issue for further review. Rehearing en banc has now been sought in *Buenrostro-Mendez*. See Pet. for Reh’g En Banc, *Buenrostro-Mendez v. Bondi*, No. 25-20496, Dkt. No. 233 (5th Cir. Mar. 23, 2026).

This motion instead asks the Court to address a separate issue. The Order appears to have treated *Buenrostro-Mendez*’s statutory holding as resolving Petitioner’s distinct as-applied procedural due process claim and to have concluded that ongoing removal proceedings alone provide all the process constitutionally due with respect to continued physical detention. ECF No.

7 at 2–3. Respectfully, that extends *Buenrostro-Mendez* beyond the question the Fifth Circuit actually decided. *Buenrostro-Mendez* addressed statutory detention authority; it did not decide whether the Fifth Amendment permits the Government to continue detaining a long-term interior resident without any meaningful, individualized custody process. *See Buenrostro-Mendez*, 166 F.4th at 498.

The oral argument confirms the limited scope of the appeal. Government counsel stated: “We have one issue before the Court now: the statutory question There’s not, in other words, a due process claim here.” Oral Argument at 44:56–45:11, *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 3, 2026). The panel therefore did not resolve the separate constitutional question presented here.

Recent decisions from this District have recognized that distinction and granted habeas relief on procedural due process grounds while accepting that *Buenrostro-Mendez* forecloses the statutory claim. *See, e.g., Nunez-Sanchez v. Bondi*, No. 1:26-cv-00549-DAE, slip op. at 3–15 (W.D. Tex. Mar. 23, 2026); *Sosnava-Rodriguez v. Ortega*, No. 1:26-cv-00273-RP, slip op. at 3–6 (W.D. Tex. Feb. 25, 2026); *Dieng v. Noem*, No. SA-26-CV-00223-XR, slip op. at 7–8, 10–24 (W.D. Tex. Feb. 25, 2026); *Valencia Reyes v. Bondi*, No. SA-25-CV-01921-XR, slip op. at 10–24 (W.D. Tex. Feb. 25, 2026).

For these reasons, the Court should alter or amend the judgment, vacate the denial order, and grant appropriate relief on Petitioner’s procedural due process claim.

I. BACKGROUND

Petitioner is a 46-year-old citizen of El Salvador who has lived continuously in the United States since approximately March 2005. ECF No. 1 ¶¶ 1, 19, 26, 30. On January 27, 2026, ICE officers stopped him while he was driving to work, stated they were “checking vans,” and took

him into custody. *Id.* ¶¶ 2, 27. He was then transferred to the T. Don Hutto Detention Center, where he remains detained. *Id.* DHS initiated removal proceedings under 8 U.S.C. § 1229a. *Id.* ¶ 27.

Before this detention, Petitioner had built his life in the United States. He is married to Karla, a U.S. citizen, and they have two U.S.-citizen children, [REDACTED] and [REDACTED]. *Id.* ¶ 30. His wife obtained approval of an I-130 petition on his behalf, and he has a pending I-601A provisional unlawful presence waiver application. *Id.* ¶ 31. He has worked in construction for years and supported his household through steady employment. *Id.* ¶ 32. He also alleged eligibility to seek cancellation of removal. *Id.* ¶ 33.

Petitioner has one prior arrest, a 2017 DWI case in Travis County, for which he completed probation and complied with all court-ordered obligations. *Id.* ¶ 28. He has no other arrests or convictions. *Id.*

The petition, filed on January 30, 2026, prior to the *Buenrostro* decision, raised both statutory and constitutional claims. ECF 1. Relevant here, Petitioner alleged that DHS's reliance on 8 U.S.C. § 1225(b) resulted in detention without any bond hearing or other individualized determination whether continued confinement was necessary to prevent flight or protect the community. *See id.* ¶¶ 34, 76–86.

On March 2, 2026, the Court denied relief. ECF No. 7. The Court held that *Buenrostro-Mendez* foreclosed Petitioner's statutory theory and further concluded that his procedural due process claim failed because he was "receiving due process afforded through removal proceedings in immigration court," and because *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), meant that, as an "applicant for admission," Petitioner had only the protections Congress provided by statute. ECF No. 7 at 2–3.

II. LEGAL STANDARD

Rule 59(e) permits a court to alter or amend a judgment to correct a manifest error of law or fact. *Templet v. HydroChem Inc.*, 367 F.3d 473, 478–79 (5th Cir. 2004). In habeas proceedings, Rule 59(e) is a proper vehicle to seek reconsideration of a district court’s judgment. *Banister v. Davis*, 590 U.S. 504, 509–10 (2020).

This motion does not relitigate every issue presented in the petition or simply reurge Petitioner’s statutory theory under § 1226(a). It presents a discrete issue: whether the Court resolved Petitioner’s distinct procedural due process claim by relying on authorities that addressed a different question.

III. ARGUMENT

A. *Buenrostro-Mendez* resolved the statutory question, not Petitioner’s procedural due process claim.

Petitioner acknowledges that *Buenrostro-Mendez* forecloses his argument that detention must be classified under § 1226(a) as a matter of statutory interpretation. *See Buenrostro-Mendez*, 166 F.4th at 501–08. He preserves that issue for appeal and notes that rehearing en banc has now been sought. *See* Pet. for Reh’g En Banc, *Buenrostro-Mendez v. Bondi*, No. 25-20496, Dkt. No. 233 (5th Cir. Mar. 23, 2026).

The issue here is different. Petitioner’s constitutional claim is not that the Court should disregard *Buenrostro-Mendez*’s statutory holding. It is that *Buenrostro-Mendez* did not decide whether the Constitution permits continued civil detention of a long-term interior resident without meaningful, individualized custody process.

That is consistent with the Fifth Circuit’s opinion. *Buenrostro-Mendez* addressed only whether certain noncitizens who entered without inspection may be treated as applicants for admission and detained under § 1225(b)(2)(A) during pending removal proceedings. *Buenrostro-Mendez*, 166 F.4th at 498, 501–08. It did not decide whether the Constitution permits the

Government to continue detaining a long-term interior resident while denying any workable custody process. Indeed, the Fifth Circuit reversed and remanded “for further proceedings consistent with this opinion,” not for dismissal. *Id.* at 498.

The same conclusion follows from *Jennings v. Rodriguez*, which addressed whether the detention statutes themselves could be construed to require periodic bond hearings. 583 U.S. 281, 297–301, 312 (2018). As a matter of statutory interpretation, *Jennings* held that the relevant detention provisions did not themselves require such hearings. But the Court expressly declined to decide the constitutional question and remanded for consideration of those claims in the first instance. *Id.* at 312. The Supreme Court took the same approach in *Johnson v. Arteaga-Martinez*, again leaving constitutional challenges to immigration detention for the lower courts to address in the first instance. 596 U.S. 573, 583 (2022). Those decisions reinforce that the statutory question and the due process question are distinct.

The oral argument in *Buenrostro-Mendez* confirms the point. Counsel told the panel: “We have one issue before the Court now: the statutory question. . . . There’s not, in other words, a due process claim here.” Oral Argument at 44:56–45:11, *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 3, 2026). That statement confirms what the opinion reflects: *Buenrostro-Mendez* resolved a statutory detention-authority question, not Petitioner’s as-applied procedural due process claim.

Respectfully, the Order appears to have treated the statutory ruling as dispositive of the constitutional one. Rule 59(e) is the proper vehicle to address that point.

B. Detention is not admission, and *Thuraissigiam* does not resolve Petitioner’s challenge to ongoing civil detention.

The Order also relied on *Thuraissigiam* to conclude that, as an applicant for admission, Petitioner is entitled only to whatever process Congress expressly provided by statute. ECF No. 7

at 3. But *Thuraissigiam* concerned the process due in expedited removal and admission-related determinations for a noncitizen apprehended twenty-five yards from the border shortly after entry. 591 U.S. at 107–10, 138–40. It did not address whether the Government may seize a person from the interior after years of residence and then deny any meaningful custody process while continuing civil detention.

Two distinctions matter here.

First, Petitioner does not challenge the admission process, ask this Court to review removability, or request additional procedures in any admission determination. He seeks only a meaningful opportunity to apply for release from civil detention. As courts in this District have explained, *Thuraissigiam* does not foreclose such a claim because the petitioner “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 *7–8 (W.D. Tex. Oct. 21, 2025); accord *Dieng*, No. SA-26-CV-00223-XR, slip op. at 11–13; *Valencia Reyes*, No. SA-25-CV-01921-XR, slip op. at 11–13.

Second, the time and place of detention matter. Unlike the petitioner in *Thuraissigiam*, Mr. Menjivar was not stopped at the threshold of entry and continuously held in border-related custody. He had lived in the interior of the United States for approximately twenty years before ICE detained him while he was driving to work. ECF No. 1 ¶¶ 26–33. That sustained interior presence is constitutionally significant because the Fifth Amendment protects “all persons within the territory of the United States.” *Wong Wing v. United States*, 163 U.S. 228, 238 (1896). And once a noncitizen enters the country, “the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see also *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990). The Supreme Court

recently reaffirmed that “[i]t is well established that the Fifth Amendment entitles aliens to due process of law.” *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

Nor is this case like *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), which involved exclusion at the threshold of entry and detention bound up with that exclusion. This case concerns a long-term interior resident detained inside the United States after years of physical presence here.

In short, *Thuraissigiam* addressed admission process. This case concerns detention process.

C. Once due process applies, the Constitution—not the detention statute—determines what process is due.

Even if Respondents are correct that § 1225 supplies the statutory detention label after *Buenrostro-Mendez*, that answers only who may initially detain Petitioner under the INA. It does not resolve the separate constitutional question whether the Government may continue physically restraining a long-term interior resident while denying him any meaningful, individualized custody process.

The Supreme Court has long held that once due process applies, “the question remains what process is due.” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). And “once it is determined that the Due Process Clause applies, the question remains what process is due,” and “[t]he answer to that question is not to be found in the [statute].” *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985). The required procedures are assessed under *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976).

Respondents’ position in similar cases has effectively been that because § 1225 mandates detention, any hearing on flight risk or dangerousness would be immaterial under the statute. But

that reasoning assumes away the constitutional issue. Petitioner's claim is constitutional, not statutory. Legislation cannot displace protections guaranteed by the Constitution. See *Counselman v. Hitchcock*, 142 U.S. 547, 565 (1892), overruled on other grounds by *Kastigar v. United States*, 406 U.S. 441 (1972). Thus, once due process applies, the question is what process the Constitution requires—not whether the statute itself calls for a hearing. See *Loudermill*, 470 U.S. at 541.

That framework matters especially here because the liberty interest at stake is physical confinement. “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*, 533 U.S. at 690. Habeas corpus exists to test the legality of that detention. See *Trump*, 604 U.S. at 673; *Boumediene v. Bush*, 553 U.S. 723, 771 (2008); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

The existence of removal proceedings does not itself resolve what process is constitutionally due with respect to continued physical detention.

D. Removal proceedings do not substitute for meaningful custody process.

The Order states that Petitioner is “receiving due process afforded through removal proceedings in immigration court.” ECF No. 7 at 3. Removal proceedings address removability and eligibility for relief from removal. They do not answer whether continued physical confinement is necessary in the meantime.

No neutral adjudicator has made an individualized finding that Petitioner is a current flight risk or danger, or that conditions of supervision would be insufficient. Instead, the Government's position is that, because it labels Petitioner a § 1225 detainee, no meaningful custody hearing exists at all.

The Government's suggestion that flight risk and dangerousness are irrelevant because detention is "mandatory" under § 1225 does not answer Petitioner's procedural due process claim. That argument addresses only the statute's text. It does not resolve whether continued physical detention without any meaningful opportunity to contest the need for confinement satisfies the Fifth Amendment. See *Jennings*, 583 U.S. at 312; *Valencia Reyes*, No. SA-25-CV-01921-XR, slip op. at 14–18. A merits hearing on removability is not a substitute for custody process directed to whether detention remains necessary.

Due process requires more than a merits hearing on removability when the Government is also physically restraining a person inside the United States. The "fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews*, 424 U.S. at 333. Here, there has been no meaningful opportunity to be heard on the question detention is meant to address: whether confinement is actually necessary in Petitioner's circumstances.

E. Under *Mathews*, Petitioner is entitled to meaningful individualized custody review.

Under *Mathews*, each factor supports relief.

First, Petitioner's private interest is exceptionally strong. Freedom from physical restraint "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. Petitioner has been confined after more than two decades of life in the United States. ECF No. 1 ¶¶ 26–33. He is separated from his wife and children, cut off from work, and unable to support his household. *Id.* ¶¶ 30–32. As the Supreme Court has recognized, "[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 (1987).

Second, the risk of erroneous deprivation is substantial where no merits-based custody review exists at all. The Government's position is not that Petitioner received a hearing and lost; it is that no hearing is available because the statutory label ends the inquiry. But whether continued detention is necessary turns on individualized facts, including family ties, work history, criminal history, appearance record, dangerousness, and less restrictive alternatives. Additional safeguards would therefore have obvious value. *See Mathews*, 424 U.S. at 335; *Addington v. Texas*, 441 U.S. 418, 425–27 (1979). And the Supreme Court has required individualized hearings before deprivations of interests less fundamental than physical liberty. *See Goldberg v. Kelly*, 397 U.S. 254, 267–68 (1970).

Third, the Government's interests are not undermined by meaningful custody process. The Government undoubtedly has legitimate interests in ensuring appearance at proceedings and protecting the community. *See Zadvydas*, 533 U.S. at 690. But those interests are served—not hindered—by an individualized determination of whether continued detention is actually necessary in a particular case. What due process does not permit is continued physical restraint without a workable forum to test that necessity. The Constitution does not require release of everyone in removal proceedings; it requires a fair mechanism to distinguish those who must be detained from those who need not be.

F. *Jennings*, *Demore*, and *Wekesa* do not resolve the distinct due process question presented here.

Nothing in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), resolves this case against Petitioner. *Jennings* addressed whether the INA could be construed to require periodic bond hearings as a matter of statutory interpretation. It rejected the Ninth Circuit's statutory reading, but it did not decide whether due process independently requires meaningful custody process. Instead, the Supreme Court remanded for further consideration of the constitutional claims. *Id.* at 312.

Nor does *Demore v. Kim*, 538 U.S. 510 (2003), control. *Demore* involved detention under 8 U.S.C. § 1226(c), a different statutory scheme directed at a narrow class of criminal noncitizens, and the Court emphasized the comparatively brief duration of detention in that context. *Id.* at 513–14, 529–30. It did not address a case in which the Government detains a long-term interior resident under § 1225 while maintaining that no workable custody forum exists.

To the extent Respondents rely on *Wekesa v. United States Attorney*, No. 22-10260, 2022 WL 17175818 (5th Cir. Nov. 22, 2022) (per curiam), that unpublished decision is materially different. It involved detention under § 1226(c), not detention of a long-term interior resident under § 1225 with no merits-based custody forum. It therefore does not resolve the as-applied procedural due process question presented here.

G. Recent decisions from this District confirm that Petitioner’s due process claim required separate analysis.

This motion does not simply reassert prior arguments. It asks the Court to separately evaluate the constitutional issue presented here: whether *Buenrostro-Mendez* and *Thuraissigiam* together foreclose Petitioner’s procedural due process claim. Recent decisions from this District indicate they do not.

In *Sosnavo-Rodriguez*, *Dieng*, and *Valencia Reyes*, the courts held that although *Buenrostro-Mendez* forecloses the statutory argument, it does not resolve the constitutional question whether detention without a meaningful custody hearing violates procedural due process. See, e.g., *Nunez-Sanchez v. Bondi*, No. 1:26-cv-00549-DAE, slip op. at 3–15 (W.D. Tex. Mar. 23, 2026); *Sosnavo-Rodriguez*, No. 1:26-cv-00273-RP, slip op. at 3–6; *Dieng*, No. SA-26-CV-00223-XR, slip op. at 7–8, 10–24; *Valencia Reyes*, No. SA-25-CV-01921-XR, slip op. at 10–24.

At minimum, those decisions indicate that Petitioner’s constitutional claim warrants separate analysis under *Mathews*, rather than resolution solely by reference to the statutory

question and the existence of pending removal proceedings. The Fifth Circuit's oral-argument record reinforces that conclusion. Oral Argument at 44:56–45:11, *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 3, 2026).

For that reason, reconsideration under Rule 59(e) is appropriate.

IV. RELIEF REQUESTED

For these reasons, Petitioner respectfully requests that the Court alter or amend the judgment, vacate its March 2, 2026 Order denying the Petition, and grant appropriate relief on Petitioner's procedural due process claim.

Petitioner respectfully requests that the Court:

- (1) alter or amend the judgment and vacate the March 2, 2026 Order;
- (2) grant habeas relief on Petitioner's procedural due process claim and order Petitioner's immediate release under conditions no more restrictive than prior to his detention; or, in the alternative,
- (3) direct Respondents to provide Petitioner a prompt, individualized custody hearing before a neutral adjudicator within a fixed deadline, at which Respondents bear the burden to prove that continued detention is necessary, less restrictive alternatives must be considered, and release is required if such a hearing is not timely provided; or, at minimum,
- (4) order such further proceedings as the Court deems appropriate to separately address Petitioner's procedural due process claim, including supplemental briefing or a prompt hearing directed to that issue.

Petitioner further requests all other relief to which he may be justly entitled.

Respectfully submitted on March 24, 2026

(Signature on next page)

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CERTIFICATE OF SERVICE

I certify that on March 24, 2026, I served the foregoing through the Court's CM/ECF system on all counsel of record.

/s/ Maria Nereida Jaimes
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