

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

Ana Maria ARNAO LINARES,

Petitioner,

v.

WARDEN, ERO EL PASO CAMP EAST
MONTANA; MARY DE ANDA-YBARRA, in her
official capacity as Field Office Director, El Paso
Field Office, U.S. Immigration and Customs
Enforcement; TODD M. LYONS, in his official
capacity as Director of Immigration and Customs
Enforcement; KRISTI NOEM, in her official
capacity as Secretary of Homeland Security; U.S.
DEPARTMENT OF HOMELAND SECURITY; and
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondents.

Case No. 3:26-cv-00340-KC

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION
FOR HABEAS CORPUS CONSIDERING RECENT FIFTH CIRCUIT
PRECEDENT**

The Court found in its Show Cause Order that this case “appears materially indistinguishable from several others in which this Court has found a procedural due process violation.” ECF No. 2 at 1 citing *Lopez-Arevelo v. Ripa*, No. 25-cv-337-KC, 2025 WL 2691828, at *1–13 (W.D. Tex. Sept. 22, 2025). “Absent new authority,” the Court continued, “[Respondents] may assume that the Court’s position on the law has not changed and explain whether the facts of Arnao Linares’s case warrant a different outcome.” ECF No. 2 at 1-2.

Respondents declined to offer any such explanation, and no new authority undermines the Court's analysis. Respondents dedicate most of their Response to the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026), but that ruling addressed a different question and does not affect the outcome here, as this Court has recognized. See *Berting v. Noem*, No. 5:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026). *Buenrostro-Mendez* dealt only with a statutory question concerning the scope of Respondents' detention authority under 8 U.S.C. § 1225(b). The cases from which Petitioner's case "appears materially indistinguishable" are cases in which this Court "found a procedural due process violation[,]" ECF No. 2 at 1, not a statutory violation.

Respondents also rehash other arguments this Court already rejected in *Lopez-Arevelo* for reasons described at length there. The Court should reject them here for the same reasons. Because Petitioner's case is indeed "materially indistinguishable" from the cases in which this Court found a due process violation, the Court should grant the habeas petition on due process grounds. See *Lopez-Arevelo*, 2025 WL 2691828; *Erazo Rojas v. Noem*, No. 3:25-cv-443-KC, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025); *Mazabanda Poaquiza v. De Anda-Ybarra*, No. 3:26-cv-126-KC (W.D. Tex. Jan. 30, 2026); *Tisighe v. De Anda-Ybarra*, No. 3:25-cv-593 (W.D. Tex. Dec. 5, 2025); *Lala Barros v. Noem*, No. 3:25-cv-488-KC, 2025 WL 3154059 (W.D. Tex. Nov. 10, 2025); *Martinez v. Noem*, No. 3:25-cv-430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Vargas Palacios v. Lyons*, No. 25-cv-00552-KC (W.D. Tex. Dec. 3, 2025).

Respondents' detention of Petitioner violates her due process rights

Respondents are detaining Petitioner without a bond hearing in violation of her due process rights. As the Court outlined in *Lopez-Arevelo*, “[t]o 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). 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.” *Lopez-Arevelo*, 801 F. Supp. 3d at 685 (internal citations and quotation marks omitted). All three factors weigh in favor of Petitioner here.

The first *Mathews* factor weighs in favor of Petitioner because she has “the most elemental of liberty interests”: “the interest in being free from physical detention.” *Martinez v. Noem*, 2025 WL 2598379, at *2 quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Applying the *Mathews* test in *Lopez-Arevelo*, this Court held “Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.” *Lopez-Arevelo*, 801 F. Supp. 3d at 686. Likewise, in *Erazo Rojas v. Noem*, this Court ruled that a habeas petitioner who was released by immigration authorities after entering the U.S. in February 2023 and then re-arrested and detained in September 2025 “possesse[d] a strong interest in his continued freedom from detention” because “he was released from immigration custody and spent

over two years at liberty in the United States.” *Erazo Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *3 (W.D. Tex. Oct. 30, 2025). Petitioner is in the same position: she spent over two years at liberty in the United States after she was released by immigration authorities in 2023 and before her re arrest in late January 2026. Together with her partner, she has built a life and family for herself here. The first *Matthews* factor weighs in her favor. The second *Matthews* factor also weighs in Petitioner’s favor because she is currently being detained without a bond hearing. As this Court held in *Lala Barros v. Noem*, “detaining [her] without holding a bond hearing creates a substantial risk that [she] may be erroneously deprived of [her] liberty.” *Lala Barros v. Noem*, No. EP-25-CV-488-KC, 2025 WL 3154059, at *4 (W.D. Tex. Nov. 10, 2025). As in *Lala Barros*, “Without an individualized determination, it cannot be said that detention is warranted . . .” and the risk of erroneous deprivation “can be easily ameliorated through a bond hearing” as “agency decisionmakers regularly conduct[] individualized custody determinations ... consider[ing] flight risk and dangerousness.” *Id.* (internal citations and quotation marks omitted); *see also Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, at *4 (W.D. Tex. Oct. 21, 2025); *Vargas Palacios v. Lyons*, No. 25-cv-00552-KC at 6-7 (W.D. Tex. Dec. 3, 2025).

The third *Matthews* factor weighs in favor of Petitioner because, while “[c]ertainly, the Government has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community . . . these concerns would be squarely addressed through a bond hearing.” *Lala Barros*, 2025 WL 3154059 at *5. Further buttressing this Court’s previous analyses are decisions from other courts holding that re-detaining an individual previously released by immigration authorities without any

showing regarding changed circumstances violates due process. *Kudyrkulov v. Martin*, No. 6:26-CV-3035-MDH, 2026 WL 312120, at *3 (W.D. Mo. Feb. 5, 2026) (“To satisfy due process . . . changed circumstances must represent individualized legal justification for detention.”); *Valdez v. Joyce*, 803 F. Supp. 3d 213, 219 (S.D.N.Y. 2025) (“Respondents’ ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.”); *Lopez v. Sessions*, No. 18-cv-4189 (RWS), 2018 WL 2932726, at *15 (S.D.N.Y. June 12, 2018) (“In light of the deprivation of . . . liberty, formerly granted and approved by Respondents, the absence of any deliberative process prior to, or contemporaneous with, the deprivation, and the statutory and the constitutional rights implicated, a writ of habeas corpus is the only vehicle for relief.”).

Buenrostro-Mendez decided a different question and does not foreclose relief

Since the filing of the instant petition, the Fifth Circuit decided a different question in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026). There, a divided panel embraced the government’s new position that 8 U.S.C. § 1225(b) empowers it to detain without bond millions of noncitizens inside the country on the same terms as if they were apprehended at the border, no matter how long they have resided in the country. Petitioner respectfully submits that *Buenrostro-Mendez* was wrongly decided in order to preserve her statutory claim, but it does not affect the outcome here. The cases from which Petitioner’s case “appears materially indistinguishable” are cases in which this Court “found a procedural due process violation[,]” ECF No. 2 at 1, not a statutory violation. *See, e.g., Erazo Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *2 (W.D. Tex. Oct. 30, 2025).

Indeed, this Court has repeatedly granted habeas relief following the *Buenrostro-Mendez* decision, and rejected Respondents' argument that *Buenrostro-Mendez* somehow undermines the procedural due process analysis in *Lopez-Arevelo*. As this Court explained, "the *Buenrostro-Mendez* court did not reach the due process question, confining its analysis and holding to statutory interpretation" and, accordingly, "*Buenrostro-Mendez* has no bearing on this Court's determination of whether [a petitioner] is being detained in violation of her constitutional right to procedural due process." *Berting v. Noem*, No. 5:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026); *see also Cortes-Escandon v. Garite*, No. 5:26-cv-314-KC, ECF No. 6 (W.D. Tex. Feb. 13, 2026) (same); *Bonilla Conforme v. De Anda-Ybarra*, No. 5:26-cv-263-KC, 2026 WL 381110 (W.D. Tex. Feb. 11, 2026) (same).¹

The Court should reject Respondents' other arguments for the reasons it explained in Lopez-Arevelo

In its Show Cause Order, the Court stated "Of course, Respondents are . . . permitted to state their position before a ruling. In doing so, Respondents are encouraged to avoid boilerplate arguments that this Court has already rejected." ECF No. 2 at 1. Respondents make two such arguments in their Response, which the Court already rejected in *Lopez-Arevelo* and should reject here for the same reasons.

¹ Respondents cite an aside in the *Buenrostro-Mendez* majority opinion, which observed that ". . . *Zadvydas v. Davis*, 533 U.S. 678, 678 (2001), has no direct application to aliens who are detained and being given due process during removal proceedings." *Buenrostro-Mendez*, 2026 WL 323330 at *9; ECF No. 3 at 10. This does nothing to foreclose Petitioner's entitlement to relief on due process grounds. *Zadvydas* directly involved detention *after* removal proceedings, not detention during such proceedings. *Zadvydas*, 533 U.S. at 682. Unlike the petitioners in *Zadvydas*, Petitioner here is not subject to a final order of deportation.

Respondents cite the Supreme Court's decision in *Dep't of Homeland Sec. v. Thuraissigiam*, 91 U.S. 103 (2020) for the proposition that "applicants for admission are entitled only to the protections set forth by statute in the INA." ECF No. 3 at 10. However, this Court already rejected that argument and explained at length why *Thuraissigiam* is distinguishable in *Lopez-Arevelo*. See *Lopez-Arevelo*, 801 F. Supp. 3d at 682 (*Thuraissigiam* "did not address whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention, as *Lopez-Arevelo* does here.")).

Respondents also rehash the argument rejected by the Court that "Petitioner must first seek relief with the immigration court or the BIA, fully exhausting administrative remedies before coming to this Court." ECF No. 3 at 16. However, this Court explained in *Lopez-Arevelo* that "Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal." *Lopez Arevelo*, 801 F. Supp. 3d at 680 citing *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007); 8 U.S.C. § 1252(d)(1) ("A court may review a final order of removal only if ... the alien has exhausted all administrative remedies."). Petitioner challenges her detention, not a final order of removal. The Court should reject Respondents' administrative exhaustion arguments for the same reasons it previously rejected them.

Conclusion

Because this case is materially indistinguishable from the cases in which this Court found a procedural due process violation, the Court should grant the petition on due process grounds. *Buenrostro-Mendez* decided a different question and does not foreclose relief.

Dated: *February 17, 2026*
El Paso, Texas

Respectfully submitted,

/s/ Clara S. Bustamante

Clara S. Bustamante, Esq.
(State Bar No. 24115993)
clara@leblawyers.com
LUBIN, ENOCH & BUSTAMANTE, P.C.
221 North Kansas Street, Suite 700
El Paso, Texas 79901
Telephone: (915) 585-8008
Facsimile: (602) 626-3586
ATTORNEYS FOR PETITIONER