

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

Dick Perry Chimel,

Petitioner,

v.

Civil Action No. 1:26-cv-00330-RP

TODD M. LYONS, *in his official capacity* as Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

PETITIONER'S REPLY IN SUPPORT
OF HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241

ROBERT CERNA, *in his official capacity* as Field Office Director of the ICE Dallas Field Office of Enforcement and Removal Operations, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;

CHARLOTTE COLLINS, *in her official capacity* as warden of the T. Don Hutto Detention Center;

KRISTI NOEM, *in her official capacity* as Secretary, U.S. Department of Homeland Security; and

PAMELA JO BONDI, *in her official capacity* as Attorney General of the United States;

Respondents.

I. INTRODUCTION

Petitioner, through counsel, replies to Respondents' Opposition/Response and respectfully submits that the Government's filing largely addresses a different detention

posture than the one presented here. Respondents rely almost entirely on *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), to argue mandatory detention under 8 U.S.C. § 1225(b)(2). But *Buenrostro-Mendez* concerns noncitizens who are “applicants for admission” because they have not been admitted—and it does not resolve (or even meaningfully address) Petitioner’s posture as a noncitizen who entered lawfully on a B-2 visa after inspection and authorization and was later detained as an alleged overstay.

II. RESPONDENTS’ RELIANCE ON § 1225(B)(2) IS FACTUALLY AND LEGALLY MISPLACED BECAUSE PETITIONER WAS ADMITTED.

Respondents’ argument begins from a premise that is not this case: they repeatedly analogize Petitioner to persons who “entered ... illegally” and are therefore “applicants for admission” subject to § 1225(b)(2). That premise collapses on the record here. Petitioner alleges—and Respondents do not genuinely rebut—that he entered the United States lawfully on September 17, 2024, on a B-2 visitor visa with authorization to remain until March 16, 2025. Respondents’ own background section likewise recites entry on a B-2 visa. Under the INA, “admission” means the lawful entry ... after inspection and authorization by an immigration officer. 8 U.S.C. § 1101(a)(13)(A). Once admitted, a person is not an “applicant for admission” on the theory adopted in *Buenrostro-Mendez*—which turns on the statutory category of persons present without having been admitted.

Petitioner’s Petition challenges ongoing civil detention pending removal proceedings under § 1226(a), and seeks release or, alternatively, a constitutionally adequate custody hearing with the burden on the Government. Respondents’ brief does

not engage with the prolonged-detention due process framework, instead it pivots to a statutory argument about § 1225 mandatory detention that depends on treating Petitioner as unadmitted. Even if Respondents now attempt to relabel Petitioner's detention as § 1225(b)(2), they must first show that Petitioner is an "applicant for admission" within the meaning of the statute and Fifth Circuit precedent they cite. *Buenrostro-Mendez* does not hold that visa overstays who were admitted are "applicants for admission." The post-*Buenrostro* landscape distinguishes the case from people who entered with a valid visa and overstayed, who remain bond-eligible absent some independent mandatory detention basis.

III. RESPONDENTS DO NOT DEFEAT PETITIONER'S DUE PROCESS CLAIM BY CITING *DEMORE* AND *THURAISSIGIAM*.

Respondents cite *Demore v. Kim*, 538 U.S. 510 (2003), and *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), for broad propositions about detention during proceedings and the process owed to "applicants for admission." Those citations do not resolve the question presented here: whether Petitioner's prolonged and effectively indefinite detention—after many months, after a completed merits hearing with decision pending, and amid policy-driven delays—remains reasonably related to legitimate civil detention purposes and is supported by constitutionally adequate procedures. Petitioner's Petition invokes the familiar procedural due process balancing under *Mathews v. Eldridge*, 424 U.S. 319 (1976) and requests a hearing with the burden on the Government by clear and convincing evidence—precisely the safeguard many courts require once § 1226(a) detention becomes prolonged.

Respondents argue exhaustion as a prerequisite. But Petitioner's Petition explains that there is no statutory exhaustion requirement for detention challenges brought under 28 U.S.C. § 2241. At most, exhaustion is prudential, and courts routinely decline to impose prudential exhaustion where, as here, the agency lacks authority to adjudicate constitutional challenges to prolonged detention and where requiring further administrative pursuit would be futile, inadequate, or would cause irreparable harm through continued unlawful confinement. Accordingly, Respondents' exhaustion argument does not bar this Court's review of Petitioner's habeas detention claim.

IV. RESPONDENTS DO NOT ENGAGE THE PETITION'S ACTUAL THEORY: PROLONGED § 1226(A) DETENTION REQUIRES A CONSTITUTIONALLY ADEQUATE CUSTODY DETERMINATION

The Petition alleges that Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and challenges his continued confinement as increasingly prolonged and effectively indefinite, such that it no longer bears a reasonable relationship to the Government's legitimate civil detention purposes. The Petition seeks either immediate release or, at minimum, a constitutionally adequate custody hearing that includes meaningful procedural safeguards—most critically, a hearing at which the Government bears the burden of justifying continued detention.

Respondents' Opposition does not meaningfully engage that framework. Instead, it largely rests on the assertion that no bond hearing is available because, in their view, § 1225 governs. But that argument sidesteps the Petition's core claim. The issue presented is not merely whether some statutory bond mechanism exists in the abstract;

rather, it is whether Petitioner's continued, prolonged detention under § 1226(a) comports with constitutional due process.

Petitioner's procedural history underscores why meaningful custody review is essential here. The record reflects multiple custody proceedings and bond requests, including denials based on flight-risk findings, as well as proceedings affected by counsel deficiencies and the absence of critical evidence. Those circumstances directly implicate the fairness and adequacy of the process Petitioner has received. The Petition challenges precisely these kinds of procedural shortcomings in the context of extended civil detention.

Yet Respondents' Opposition largely avoids addressing whether the process afforded has been constitutionally sufficient. Instead, it focuses on a different and threshold statutory argument—namely, categorical detention authority under § 1225—that does not resolve whether Petitioner's prolonged confinement satisfies due process requirements. By litigating a statutory framework that does not match Petitioner's admitted-overstay posture, Respondents fail to confront the Petition's actual claim: that continued § 1226(a) detention, without constitutionally adequate procedural protections, violates the Fifth Amendment.

V. REQUESTED RELIEF

For all of these reasons, Respondents' Opposition does not answer the constitutional question presented. Petitioner is an admitted noncitizen detained under § 1226(a) whose confinement has become increasingly prolonged without constitutionally adequate procedural protections. The Fifth Amendment does not permit civil detention to

continue indefinitely based on categorical assertions of statutory authority. At minimum, due process requires a meaningful custody hearing at which the Government bears the burden of justifying continued detention by clear and convincing evidence.

Accordingly, the Court should grant the Petition and order Petitioner's immediate release or, in the alternative, a prompt bond hearing at which the Government bears the burden of proving, by clear and convincing evidence, that Petitioner poses a danger to the community or a flight risk.

Dated: February 20, 2026

Respectfully Submitted,

/s/Brenda M. Villalpando

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on February 20, 2026, I filed Petitioner's Reply in Support of Petition for Writ of Habeas Corpus using the CM/ECF system.

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