

UNITED STATES DISTRICT COURT
For the Western District of Texas
AUSTIN DIVISION

Carlos Ricardo Herrera Solis,

Petitioner,

v.

Charlotte Collins, Waren of T. Don Hutto
Detention Center, et al.,

Respondents,

Civil Action Number No. 1:26-cv-00344-ADA-ML

**RESPONSE TO THE GOVERNMENT'S RESPONSE TO PETITION FOR WRIT
OF HABEAS CORPUS**

Petitioner, through undersigned counsel provides the following response to the Respondent's response to Petitioner's habeas petition. ECF No. 5. Although Petitioner acknowledges the Fifth Circuit Court of Appeals decision in *Buenrostro*, this court should grant the Petitioner's habeas petition. *Buenrostro v. Bondi*, No. 25-20496, ---- F.4th ---- 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026) under due process grounds, which this court has found to be a sufficient basis in deciding these cases.¹ Alternatively, the statutory

¹ This court found that immigration habeas cases brought by petitioners subject to mandatory detention under the Government's new interpretation of 8 U.S.C. § 1225(b),² need not rely solely on interpretation arguments but can be ruled under due process claims. The court citing *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026) issued on February 6, 2026, "determining Respondents' statutory interpretation of Section 1225(b)'s mandatory detention provision is correct. However, *Buenrostro-Mendez* does not change this case's outcome on procedural due process grounds. In its original due process analysis, this Court accepted without deciding Respondents' interpretation was true. See, e.g., *Zafra v. Noem*, No. EP-25-CV-00541-

analysis of Section 1225(b)(2)(A) was recently reexamined in *Maldonado Bautista*, where the District Court issued a ruling that immigration detainees “may be unlawfully detained may seek release on bond or conditional parole under 8 U.S.C. § 1226(a)” and vacated *Matter of Yajure Hurtado*² as contrary to law under the APA.³ *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025).

PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION

Petitioner seeks an order from this Court directing the Respondents to release Petitioner from an unlawful detention or in the alternative a bond hearing in immigration court. These remedies are appropriate forms of relief despite the Fifth Circuit precedent. Despite the ruling in *Buenrostro*, *Matter of Yajure Hurtado*, was recently vacated by the Central District of California, under the basis that it was contrary to law under the APA.

Petitioner still contends that detention should be governed by 8 U.S.C § 1226, and that Petitioner is being unlawfully detained and deprived of a bond hearing. Prior to the decision of the Fifth Circuit, District Courts all throughout the United States found that the

DB, 2025 WL 3239526 (W.D. Tex. Nov. 20, 2025) (“The parties argue about Respondents’ novel interpretation regarding mandatory detention under Section 1225(b) and whether Petitioner falls within it. Even assuming without deciding Respondent’s reading is correct, the Court will not address these arguments because the Court finds Petitioner is entitled to procedural due process in his as-applied challenge.”).

² The Board of Immigration Appeals in *Matter of Yajure Hurtado* found that “based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.”

³ In *Maldonado Bautista v. Santacruz*, the U.S. District Court for the Central District of California granted plaintiffs’ motion to enforce its prior judgment and, on February 18, 2026, vacated the Board of Immigration Appeals’ decision in *Matter of Yajure Hurtado* under the Administrative Procedure Act, concluding that the agency’s prior interpretation eliminating bond hearings for many noncitizens present without inspection was unlawful and removing *Yajure Hurtado* as binding precedent.

individuals were governed by 1226. In *Buenrostro*, the dissenting Judge citing the District Court *Buenrostro*'s case, discussed that "[a]s almost every district court to consider this issue has concluded, the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application [to noncitizens already present in the United States] for the past three decades support finding that § 1226 applies to these circumstances." *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) (citation modified).

Clearly, the core issue has been the simple phrase of "an alien seeking admission". The dissenting Judge in *Buenrostro* concludes that the majority's decision is not credible because the it goes against the "statutory definition of "admission, the provision's context, the Supreme Court's understanding of the statutory scheme, and the whole history of American immigration law, "seeking admission" means what it sounds like: actively seeking to enter this country." *Buenrostro v. Bondi*, No. 25-20496, ---- F.4th ---- 2026 WL 323330, at *25 (5th Cir. Feb. 6, 2026).

In light of the most recent decision in *Buenrostro* and the dissenting opinion of *Buenrostro*, Petitioner is not subject to mandatory detention.

In their response, Respondents acknowledge that many courts in the Western District of Texas have ruled otherwise in previous habeas cases, even citing multiple cases post *Buenrostro*. However, they fail to acknowledge that habeas petitions have even been granted in light of the Fifth Circuit ruling under different basis, namely that of Due Process Claims.

DUE PROCESS CLAIMS

Constitutional due process entitles the Petitioner to be released or in the alternative to a bond hearing

The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Respondent raises issue that “Petitioner has not challenged the adequacy of the procedures for determining whether Petitioner is an ‘applicant for admission’, a matter determined in immigration proceedings, and that subjects Petitioner to mandatory detention under §1225(b)(2)(A).” However, Petitioner not only raised issues regarding due process on the basis of the interpretation of 8 U.S.C. §1225(b)(2)(A) but also of simple constitutional due process grounds.

There is no need of incorporating the statute of §1225(b)(2)(A) because the *Buenrostro* panel did not reach the due process question, as such confining its analysis and holding to statutory interpretation. *Bonilla Conforme v. De Anda-Ybarra*, No. 3:26-cv-263-KC, 2026 WL 381110, at *1 (W.D. Tex. Feb. 11, 2026) (citing *Buenrostro-Mendez*, 2026 WL 323330, at *1-10). Thus, *Buenrostro* has no bearing on this Court’s determination of whether [a habeas petitioner] is being detained in violation of her constitutional right to procedural due process.” *Id.* at *2 (citation omitted). Other “[f]ederal district courts in Texas have also made this finding subsequent to the Fifth Circuit issuing its opinion in *Buenrostro-Mendez*.” *Ochoa v. Vergara*, No. 1:26-cv-266-RP, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026) (collecting cases). And the Court has already rejected the rest of Respondents’ arguments or else need not reach them. Compare Resp. 1–9, with,

e.g., *Lala Barros v. Noem*, No. 3:25-cv-488-KC, 2025 WL 3154059, at *1–6 (W.D. Tex. Nov. 10, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-443-KC, 2025 WL 3038262, at *1–5 (W.D. Tex. Oct. 30, 2025); *Martinez v. Noem*, No. 3:25-cv-430-KC, 2025 WL 2965859, at *1–5 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588, at *10–13 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo*, 801 F. Supp. 3d at 674– 88.

As such, Petitioner has a constitutional due process right of not being detained. Currently, Petitioner has been detained since November 2025. ECF No. 1, ¶ 1. Petitioner has a merits on February 26, 2026, at 8:30 AM, in which a Motion to Continue was filed so that this case may be adjudicated prior to his Merits hearing. There is no timeline as when his removal proceedings will conclude or for how long he will be detained. Even if his merits were to conclude on the 26th, Petitioner will more than likely appeal a denial of his 42B application in where he is seeking relief from removal. Petitioner has U.S. citizen children with disabilities and will do all he can to ensure that he has his day in court. An appeal with the Board of Immigration Appeals does not offer a specific time frame of when such case would be decided. Petitioner could be detained for months, or even years pending the litigation of his appeal.⁴ Even then, Petitioner would then have the right to appeal to the Fifth Circuit of Appeals which would presumably take more time, thus furthering the argument that this petition should be granted under constitutional due process grounds.

CONCLUSION

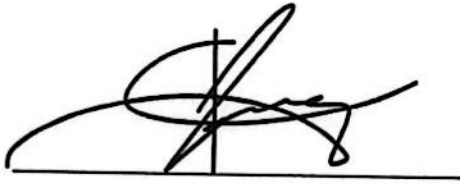
Just as this court has granted habeas petitions in other rulings, this Court should follow its current precedent. Respondents rely heavily on *Buenrostro*, but the Fifth Circuit's ruling is

⁴ This approximation is based on undersigned Counsel's past history as an immigration attorney handling appeals with the Board of Immigration Appeals.

confined solely to the interpretation of sections 1225 and 1226, not on any other issues as Respondents contend. Additionally, Respondents contend that legal administration of this issue is no before federal appellate courts, but no decisions have been made or published and solely relies on an "if". Petitioner respectfully request that the Court grant this petition.

DATED this 25th of February 2026

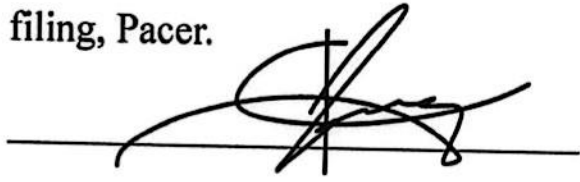
Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February 2026, a true and correct copy of the foregoing Response was served on Respondents Counsel in compliance with Fed. R. Civ. P. 5 via electronic filing, Pacer.

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Christopher U. Ramirez

February 25, 2026