UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION
CIVIL No. _________

JOSE EDGARDO BARELA-CERROS, Petitioner.	§	
v.	§	**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C §2241**
DAVERY MOONEYHAM, Warden of Limestone County Detention Center, BRET BRADFORD, Acting Director ICE- Enforcement and Removal Operations, KRISTI NOEM, Secretary, US Department of Homeland Security, and PAM BONDI, Attorney General, Respondents.	§	

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

Petitioner has been detained by Immigration and Customs Enforcement (ICE) for 6 months without any individualized determination that he presents a flight risk or danger to the community. He seeks immediate release or, at minimum, a hearing before a neutral decision-maker.

This case does not challenge the Fifth Circuit's recent decision in Buenrostro-Mendez v. Bondi, No. 25-20496 (5th Cir. Feb. 6, 2026), which held that certain noncitizens are subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A). Rather, it challenges the constitutional application of that statute to Petitioner's specific circumstances.

The Fifth Circuit recognized that constitutional questions about prolonged detention under §1225(b)(2)(A) were "wholly speculative" at the time of its decision. Buenrostro-Mendez, slip op. at 21. Petitioner's 5-month detention, following 6 years of continuous presence, makes these concerns concrete. The Constitution does not permit indefinite detention without individualized review, regardless of statutory classification.

II. JURISDICTION AND AUTHORITY

1. Jurisdiction lies under 28 U.S.C. §2241 and 28 U.S.C. §1331.
2. The Fifth Circuit recognizes habeas jurisdiction over challenges to the fact and legality of immigration detention, including constitutional claims. *See* Zadvydas v. Davis, 533 U.S. 678 (2001); Pierre v. United States, 525 F.2d 933 (5th Cir. 1976).
3. This Court has authority to issue a TRO to halt ongoing constitutional violations. *See* Opulent Life Church v. City of Holly Springs, 697 F.3d 279, 295 (5th Cir. 2012).

III. STATEMENT OF FACTS

1. Background and Family Ties

1. Petitioner is 25 years old and has resided in the United States for 6 years, since 2019.
2. Petitioner and his family live at [redacted]

3. Petitioner has no criminal record and no history of immigration violations other than unlawful entry in 2019.

2. Re-Detention Under §1225(b)(2)(A)

1. On August 14, 2025 ICE apprehended Petitioner during a routine check-in and took him into custody.
2. ICE now asserts authority to detain Petitioner under 8 U.S.C. §1225(b)(2)(A), claiming he is an "applicant for admission" subject to mandatory detention.
3. ICE has provided no explanation for its decision to detain Petitioner after 6 years of continuous presence in the country, other than changed "policy."
4. Petitioner has been continuously detained at Limestone County Detention Center since August 14, 2025—a total of 6 months to date.

3. Current Removal Proceedings and Likelihood of Relief

1. Petitioner is in removal proceedings before the Groesbeck, TX Immigration Court.
2. His next master calendar hearing is scheduled for March 11, 2026. ICE has provided no timeline for completion of proceedings.
3. Petitioner has applied for asylum removal under 8 U.S.C. §1229b(b).] [Attach application as Exhibit H.]

5. Harm from Continued Detention

1. Petitioner's continued detention causes severe and irreparable harm:

Economic Harm:

a. Loss of employment and income;

b. Loss of the ability to pay rent in order to provide housing for the Petitioner's family;

c. Loss of the ability to provide the basic necessities for the Petitioner's family

Familial Harm:

d. Separation from spouse;

Inability to Defend Against Removal:

e. Petitioner is unable to gather documentary evidence for relief application while in custody;

f. Petitioner cannot locate witnesses or obtain declarations needed to defend his case while in ICE custody;

6. Each day of continued detention exacerbates these harms.

IV. CLAIM FOR RELIEF

VIOLATION OF FIFTH AMENDMENT DUE PROCESS

1. Petitioner incorporates all preceding paragraphs.

2. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of life, liberty, or property without due process of law.
3. This guarantee extends to all persons within the United States, including noncitizens in removal proceedings. Zadvydas v. Davis, 533 U.S. 678, 693 (2001) ("Once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent."); Reno v. Flores, 507 U.S. 292, 306 (1993).
4. Petitioner's detention violates both substantive and procedural due process in multiple, reinforcing ways.

A. Substantive Due Process: Indefinite Detention Without Individualized Determination

1. The Supreme Court has held that indefinite or prolonged civil detention raises "serious constitutional concerns." Zadvydas, 533 U.S. at 690.
2. To avoid these concerns, the Supreme Court has "read an implicit limitation" into immigration detention statutes requiring individualized determinations and temporal limits. Id. at 689.
3. The Supreme Court identified six months as a "presumptively reasonable period" for immigration detention. Id. at 701.
4. While Petitioner has been detained for 6 months, he faces indefinite detention with no end in sight:

a. Section 1225(b)(2)(A) contains no temporal limitation whatsoever;

b. The statute provides for detention "pending a proceeding under section 1229a," which could last months or years;

c. Petitioner's removal proceedings have no definite conclusion date and could last months or over a year for the adjudication and appellate process to conclude;

d. Cases involving applications for relief and appeal to the Board of Immigration Appeals routinely take 9-24+ months to resolve;

e. ICE has provided no timeline for completion of proceedings or release from detention.

5. Even though Petitioner has been detained for "only" 6 months, the trajectory of his case makes clear he will be detained far beyond the six-month presumptively reasonable period absent intervention by this Court.
6. Unlike the post deportation/removal order detention at issue in Zadvydas, Petitioner's detention is even more troubling because: a. He is detained during, not after, removal proceedings, when he is actively pursuing relief; b. The proceedings themselves could last indefinitely; c. He has had no hearing whatsoever to determine the necessity of detention; and d. He faces categorical detention based on a recently-changed legal classification, not individualized facts.
7. Respondents have made no individualized determination that Petitioner's continued detention is necessary to prevent flight or danger to the community, which are the only constitutionally permissible bases for preventive civil detention. United States v. Salerno, 481 U.S. 739, 748 (1987).
8. To the contrary, all evidence demonstrates Petitioner poses neither risk: a. ICE itself previously determined Petitioner was eligible for release under §1226(a); b. Petitioner has

a perfect record of compliance with ORR conditions; c. Petitioner appeared for 100% of ICE check-ins and court hearings; d. Petitioner maintained stable employment and residence; e. Petitioner had zero violations of any condition and zero criminal conduct; f. Petitioner voluntarily appeared at the very check-in where ICE detained him, demonstrating continued willingness to comply.

9. Petitioner's detention is purely categorical, based solely on his legal classification as an "applicant for admission"—not on any individualized finding that he personally requires detention.
10. This categorical, indefinite detention without individualized determination violates substantive due process.

B. Procedural Due Process: Complete Deprivation of Hearing

1. The Fifth Amendment requires meaningful procedural protections before deprivation of physical liberty—one of the most fundamental interests protected by the Constitution.
2. Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), courts apply a three-part balancing test to determine what process is due: (1) the private interest affected by government action; (2) the risk of erroneous deprivation through procedures used and the probable value of additional safeguards; and (3) the government's interest, including the fiscal and administrative burdens of additional procedures.
3. Applying the Mathews balancing test here, the constitutional scales tip overwhelmingly in favor of providing Petitioner a hearing.
4. **First Factor: Private Interest.** Petitioner's private interest is among the most fundamental protected by the Constitution—physical liberty and the ability to remain

with his family: a. Petitioner faces ongoing separation from his family; b. He has lost his livelihood and ability to support his family; c. He cannot care for his family who depends on him; d. His detention prevents him from effectively defending against removal; e.Each day of detention causes harms that cannot be remedied through monetary compensation.

5. **Second Factor: Risk of Erroneous Deprivation.** The risk of erroneous deprivation here is not merely substantial, it is 100%: a. Respondents have made zero individualized determination about Petitioner; b. The detention is purely categorical based on manner of entry 6 years ago; c. No decision-maker has considered Petitioner's individual circumstances, ties, compliance history, or lack of flight risk; d. Additional procedural safeguards, a hearing before a neutral decision-maker, would dramatically reduce this risk at minimal cost; e. Such hearings occur routinely under §1226(a) for similarly situated individuals and impose minimal burden on the system.

6. **Third Factor: Government Interest.** The government's interests are preventing flight and protecting public safety. However: a. These interests are not served by detaining someone who has proven through years of compliance that he will appear and poses no danger; b. Petitioner's perfect compliance history directly contradicts any claim that detention is necessary; c. The government already conducted an individualized assessment when it issued the ORR—it need only do so again; d. A hearing would impose minimal administrative burden, as ICE routinely conducts such hearings under §1226(a); e. The government's interest in uniform application of §1225(b)(2)(A) does not outweigh fundamental liberty interests.

7. The Mathews balancing test overwhelmingly favors providing Petitioner a hearing before a neutral decision-maker with authority to order release upon a showing that he is not a flight risk or danger.

8. At minimum, due process requires: a. Notice of the reasons for continued detention; b. An opportunity to present evidence that Petitioner is neither a flight risk nor a danger to the community; c. A hearing before a neutral decision-maker (not ICE, which is the prosecuting/detaining authority); and d. Authority in that decision-maker to order release on bond or conditions if Petitioner meets his burden.

9. Respondents have provided none of these procedural protections. Petitioner has received no hearing, no opportunity to present evidence of his ties and compliance, and no review by any neutral arbiter.

10. This complete deprivation of process violates the Fifth Amendment.

C. Equal Protection: Arbitrary Classification

1. The Fifth Amendment's due process clause incorporates equal protection principles applicable to federal government action. Bolling v. Sharpe, 347 U.S. 497, 499 (1954).

2. Equal protection requires that the government treat similarly situated individuals alike, absent a rational basis for differential treatment.

3. Respondents treat Petitioner—who entered the United States without inspection 6 years ago—fundamentally differently from a noncitizen who entered lawfully but overstayed a visa for many years.

4. These two individuals are identically situated in all relevant respects: a. Both are present in the United States without lawful status; b. Both are subject to removal proceedings; c.

Both have identical equities (length of presence, U.S. citizen family, employment, community ties); d. Both present identical levels of flight risk and danger (or lack thereof); e. Both may be eligible for the same forms of relief from removal.

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

6. This differential treatment is based solely on the manner of entry many years ago—a factor that bears no rational relationship to the government's stated interests in preventing flight and protecting public safety.

7. Indeed, the manner of entry 6 years ago tells us nothing about current flight risk or danger, which is why ICE conducts individualized assessments when deciding whether to detain or release under §1226(a).

8. The irrationality of this classification is particularly stark in Petitioner's case: a. ICE itself previously closed the Petitioner's case; b. Petitioner's case was then reopened after 6 years, because the petitioner reached the age of majority; c. Thus, Petitioner demonstrably presents less risk than many individuals who receive bond hearings under §1226(a); d. Yet Petitioner alone receives categorical detention without any hearing.

9. The government's asserted interest in "equal treatment" of noncitizens at the border and in the interior cannot justify this arbitrary classification: a. First, that interest relates to uniformity in removal proceedings (covered by §1225(a)(1)'s definition of "applicant for

admission"), not detention; b. Second, even if relevant to detention, it does not explain why long term residents should be treated identically to recent border crossers; c. Third, it does not explain why manner of entry years ago should control over current, proven lack of flight risk.

10. This classification violates equal protection because it treats identically situated individuals differently based on an arbitrary factor unrelated to any legitimate government interest.

D. Arbitrary and Capricious Government Action

1. The Due Process Clause prohibits arbitrary government action. County of Sacramento v. Lewis, 523 U.S. 833, 845-46 (1998) (due process protects against "the exercise of power without any reasonable justification in the service of a legitimate governmental objective").
2. Respondents' decision to re-detain Petitioner under a different statutory authority, based solely on policy change rather than any change in his individual circumstances, constitutes arbitrary government action.
3. ICE made a formal, affirmative determination to close the Petitioner's case, because he was a minor. This was not a mere administrative oversight or clerical error; b. It reflected ICE's legal determination that Petitioner fell within the §1226(a) framework; c. It reflected ICE's discretionary judgment that Petitioner warranted supervised release rather than detention; d. ICE issued a formal Order of Release on Recognizance with specific conditions; e. ICE monitored Petitioner's compliance with these conditions for 6 years.

4. Petitioner reasonably relied on ICE's determination: a. He complied with every condition ICE imposed; b. He appeared for every required check-in, knowing ICE could re-detain him if he failed to appear; c. He appeared for every court hearing; d. He maintained employment and stable residence; e. He cooperated fully with ICE and the immigration court; f. He organized his life and his family's life around the conditions ICE imposed; g. He demonstrated through his actions that ICE's initial determination to release him was correct.
5. Now, despite Petitioner's perfect compliance and despite no change whatsoever in his individual circumstances, ICE has reversed course: a. ICE detained Petitioner when he voluntarily appeared for a check-in; b. ICE switched from treating him under §1226(a) to §1225(b)(2)(A); c. ICE provides no explanation based on Petitioner's conduct or circumstances; d. The sole reason is a policy change following Buenrostro-Mendez.
6. Allowing agencies to switch legal theories mid-proceeding, after a person's good-faith reliance and compliance, is the epitome of arbitrary action: a. It penalizes compliance rather than rewarding it; b. It punishes someone for the government's own change of mind; c. It makes a mockery of supervised release programs if compliance provides no protection; d. It defeats reasonable reliance on government representations; e. It fails to serve any legitimate government interest, as Petitioner's circumstances have not changed.
7. While the government generally cannot be estopped, courts recognize an exception for "affirmative misconduct." Heckler v. Community Health Servs., 467 U.S. 51, 60 (1984).
8. Affirmative misconduct includes situations where: a. The government makes an affirmative representation; b. The party reasonably relies on that representation to his

detriment; and c. Allowing the government to reverse course would be a manifest injustice.

9. All three elements are met here: a. ICE's issuance of an ORR constituted an affirmative representation that Petitioner would remain eligible for supervised release absent changed circumstances (new criminal conduct, flight, violations, etc.); b. Petitioner reasonably relied by maintaining perfect compliance for 6 years, organizing his life around the conditions, and continuing to appear voluntarily; c. Allowing re-detention under a different statutory authority, despite perfect compliance, works manifest injustice.
10. This arbitrary reversal violates fundamental due process principles of fairness and reasonable reliance on government action.

E. As-Applied Constitutional Challenge

1. Even if §1225(b)(2)(A) could be constitutionally applied to some individuals in some circumstances, its application to Petitioner violates the Constitution.
2. Petitioner presents the precise scenario where mandatory detention without a hearing cannot be constitutionally sustained: a. Long-term U.S. resident (6 years) with deep ties; b. The government previously determined he warranted release; c. Proven track record of compliance eliminating any flight risk or danger concern; d. Indefinite detention with no timeline for proceedings; e. Strong case for relief from removal; f. Severe irreparable harm from continued detention; g. Detention based solely on policy change, not individual facts.
3. The Fifth Circuit in Buenrostro-Mendez acknowledged that constitutional concerns about §1225(b)(2)(A) were "wholly speculative" at the time. Slip op. at 21.

4. Petitioner's case makes these concerns concrete, not speculative. This is precisely the type of as-applied challenge the Fifth Circuit did not address and could not foreclose.
5. For all these reasons, Petitioner's continued detention violates the Fifth Amendment's guarantee of due process and equal protection.

WHEREFORE, Petitioner respectfully requests that this Court:

a. Declare that Petitioner's continued detention violates the Fifth Amendment to the United States Constitution;

b. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from custody, subject to reasonable conditions of supervision including GPS monitoring, regular ICE check-ins, surrender of travel documents, and/or reasonable bond;

c. Alternatively, order Respondents to provide Petitioner with an individualized hearing before a neutral decision-maker within seven (7) days, at which Petitioner may demonstrate he is neither a flight risk nor a danger to the community, and at which the decision-maker has authority to order release on bond or conditions of supervision;

d. Enjoin Respondents from continuing to detain Petitioner in violation of his constitutional rights;

e. Order a stay of removal proceedings pending resolution of this petition;

f. Award costs and attorney's fees pursuant to 28 U.S.C. § 2412 and other applicable law;

g. Grant such other and further relief as the Court deems just and proper.

VII. VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,
/s/ Matthew Mendez
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CERTIFICATE OF SERVICE

On February 17, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, DAVERY MOONEYHAM, in his Official Capacity as Warden of the Limestone County Detention Center, located at 910 Tyus Street, Groesbeck, TX 76642.

/s/ Matthew Mendez February 17, 2026
Matthew Mendez Date

CERTIFICATE OF SERVICE

On February 17, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Bret Bradford, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations Houston Field Office, at (1) Office of the Field Office Director, Enforcement and Removal Operations, Houston Field Office, 126 Northpoint Drive, Houston, Texas 77060.

/s/ Matthew Mendez February 17, 2026
Matthew Mendez Date

CERTIFICATE OF SERVICE

On February 17, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security, at (1) Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530.

/s/ Matthew Mendez February 17, 2026

Matthew Mendez Date

CERTIFICATE OF SERVICE

On February 17, 2026, Counsel for Plaintiff served a copy of the attached Petition 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 usatx.civil.immigration.notices@usdoj.gov

/s/ Matthew Mendez February 17, 2026

Matthew Mendez Date