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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

VICTOR JOSE MORALES QUINTERO,

Detainee with Alien Registration Number: 

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY (DHS);
KRISTI NOEM, Secretary, DHS (in her official capacity);
PAMELA BONDI, Attorney General of the United States (in her official capacities);
BRET BRADFORD, Director, Houston Field Office, ICE Enforcement and Removal
Operations (ICE ERO) (in his official capacity);
WARDEN, LIMESTONE COUNTY DETENTION CENTER (in their official capacity);

Respondents.

Civil Action Case No. 6:26-CV-00106-ADA-DTG

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO THE WRIT OF
HABEAS CORPUS**

Petitioner submits this reply in support of his Petition for Writ of Habeas Corpus. Respondents' Response rewrites the NTPSA procedural history, ignores the Ninth Circuit's denial of vacatur and subsequent mandate, and still refuses to engage the claim actually pleaded here: an individual, as-applied habeas challenge to detention and the denial of any meaningful bond process. Thus, the Respondents' opposition fails for three independent reasons.

First, Respondents misstate the current posture of *National TPS Alliance v. Noem* ("NTPSA"). The Response treats the Supreme Court's October 3, 2025, stay as if it swallowed the Ninth Circuit's later merits decisions, the district court's separate declaratory judgment, the Ninth Circuit's March 18, 2026, denial of the Government's motion to vacate NTPSA I, and the Ninth Circuit's March 26, 2026, mandate. It did not. The Ninth Circuit has now expressly explained that the later district court's merits judgment transformed the earlier preliminary postponement relief into permanent set-aside relief, denied the Government's effort to vacate NTPSA I, and allowed the mandate to issue. Respondents may not relitigate NTPSA I in this habeas case by collapsing distinct orders into one undifferentiated "stay."

Second, Respondents attack a theory Petitioner did not plead. Petitioner does not ask this Court to give NTPSA out-of-circuit precedential effect, nor does he ask this Court to enforce a California habeas writ against a Texas custodian. He asks this Court—sitting in the district of confinement and exercising its own habeas jurisdiction—to decide whether DHS may continue detaining him where DHS itself is a party bound by federal adjudications governing TPS continuity for covered NTPSA members, and where Congress separately prohibited detention of a person "provided [TPS]" on the basis of immigration status. 8 U.S.C. § 1254a(d)(4).

Third, Respondents again mischaracterize Petitioner's Fifth Amendment claim as a generalized attack on immigration detention. It is not. This is an as-applied challenge to

Petitioner's no-bond detention in this case: he was previously released, complied with ICE, was granted TPS, had prior proceedings dismissed, timely re-registered, appeared voluntarily at a routine ICE appointment, and was then re-detained without any meaningful opportunity to obtain an individualized custody determination. After *Buenrostro-Mendez*, district courts in this Circuit continue to hold that such procedural due process claims remain available and can warrant release or a constitutionally adequate custody hearing.

Nevertheless, this Court need not accept Petitioner's TPS position in every broad respect to reject Respondents' argument. **The critical point is narrower** and case-specific. Respondents cannot invoke the Supreme Court's October 3, 2025, stay as though it erased the Ninth Circuit's express distinction between the earlier postponement order and the later merits set-aside order, or as though the Government had obtained a permanent stay of all later relief when it elected not to seek one during the district court's two-week stay window.

Just as important, Petitioner is not asking this Court to treat NTPSA as free-floating out-of-circuit precedent that automatically controls custody everywhere, as previously stated.. Petitioner invokes NTPSA as part of his own statutory and constitutional custody challenge, based on his own TPS posture, his own detention, and his own no-bond proceeding. That is why the Respondents' effort to reframe this case as a generalized challenge to immigration detention misses the point.

Accordingly, the Court should lead with the issues that actually matter here: (1) Respondents are misstating NTPSA's procedural history by blurring preliminary and permanent relief and omitting the denial of vacatur and mandate; (2) regardless of the broader TPS merits dispute, Petitioner presents an individual, as-applied habeas challenge; and (3) under post-*Buenrostro* decisions in this District, detention without a constitutionally adequate opportunity for bond remains a viable procedural due process claim.

**I. RESPONDENTS' NTPSA ARGUMENT FAILS BECAUSE IT CONFLATES
DISTINCT ORDERS AND IGNORES THE LATER NINTH CIRCUIT MANDATE**

A. The Supreme Court's October 3, 2025, stay did not erase the later merits rulings or convert preliminary relief into a stay of all later relief.

Respondents' discussion of NTPSA collapses several distinct orders into one. The chronology matters.

The March 31, 2025, order in NTPSA was postponed, under 5 U.S.C. § 705, the effective date of Secretary Noem's actions. The Ninth Circuit affirmed that preliminary postponement order in *National TPS Alliance v. Noem*, 150 F.4th 1000 (9th Cir. 2025) ("NTPSA I"). One week later, on September 5, 2025, the district court entered partial summary judgment and set aside Secretary Noem's vacatur and termination of Venezuela's TPS under APA § 706. *National TPS Alliance v. Noem*, 798 F. Supp. 3d 1108 (N.D. Cal. 2025). When the Government then argued that the Supreme Court's earlier stay of the March 31 postponement order controlled the merits-stage stay request, the Ninth Circuit rejected that premise. It explained that the Supreme Court's earlier stay was textually limited to the March 31 order and "did not bar [the district court] from adjudicating the case on the merits and entering a final judgment." *National TPS Alliance v. Noem*, No. 25-5724, Dkt. 23-1 at 4–5 (9th Cir. Sept. 17, 2025) ("NTPSA II").

The Supreme Court's October 3, 2025, order then stayed the September 5, 2025, order as to "the Venezuela vacatur and Venezuela termination" pending appeal and certiorari, if timely sought. *Noem v. Nat'l TPS Alliance*, 146 S. Ct. 23, 24 (2025) (Mem.). But the Ninth Circuit later made explicit that the Supreme Court's unreasoned emergency stay orders were "not controlling as to the outcome" on the merits. *National TPS Alliance v. Noem*, 166 F.4th 739 (9th Cir. 2026) ("NTPSA III"). Thus, even if the October 3 stay had practical consequences as to the September 5 set-aside order, it did not vacate NTPSA I, it did not

decide the merits in the Government's favor, and it did not authorize Respondents to pretend that all later NTPSA developments simply disappeared.

B. The Ninth Circuit has now expressly rejected the very conflation that Respondents repeat here.

After the district court entered permanent merits relief, the Government moved to vacate NTPSA I as moot. The Ninth Circuit denied that motion on March 18, 2026. In doing so, it drew the exact distinction Respondents blur in their Response. The Ninth Circuit stated:

“The question is whether the appeal became moot when the district court entered partial summary judgment against the Government, thus transforming the preliminary relief (postponement) into permanent relief (set aside).”

National TPS Alliance v. Noem, No. 25-2120, Dkt. 113-1 at 7–8 (9th Cir. Mar. 18, 2026) (emphasis added). The Ninth Circuit then denied vacatur and further held that “[t]hat the mandate had not yet been issued when the potential mootness arose is not dispositive.” *Id.* at 13. Eight days later, on March 26, 2026, the Ninth Circuit's mandate issued. *Id.*, Dkt. 114-1 (Mar. 26, 2026).

Respondents' Response—filed the same day the mandate issued—mentions neither the March 18 order denying vacatur nor the March 26 mandate. Instead, it asks this Court to accept the very confusion the Ninth Circuit has already rejected: that a stay related to preliminary postponement relief somehow swallows the later permanent merits rulings and their consequences. That is not NTPSA's current posture.

C. The December 10, 2025, declaratory judgment separately preserved rights for individual NTPSA members, and Respondents identify no later stay of that declaratory relief.

Respondents also omit the district court's separate December 10, 2025, declaratory judgment. Judge Chen granted declaratory relief and declared unlawful both (1) the vacatur

of the January 17, 2025 TPS extension for Venezuela and (2) the termination of Venezuela's 2023 TPS designation. *National TPS Alliance v. Noem*, No. 25-cv-01766-EMC, ECF No. 340, at 3–5 (N.D. Cal. Dec. 10, 2025). The court stayed that declaratory relief only “for two weeks to permit an appeal to and request for a longer stay from the Ninth Circuit.” *Id.* at 1, 5. It further explained that the declaratory relief “may help preserve the pending status quo for individual members of the NTPSA” in “individual actions where an individual member might receive some benefit from the declaratory judgment.” *Id.* at 3.

That matters here. Petitioner is not asking this Court to transform NTPSA into a classwide habeas decree enforceable everywhere by itself. He is doing precisely what Judge Chen contemplated: bringing an individual action in the proper district of confinement and invoking the declaratory judgment and related NTPSA rulings as part of the merits against DHS, a party already bound in that litigation. Respondents identify no later stay of that declaratory judgment in their Response.

D. Burnham and Padilla do not answer the Petitioner's argument.

Respondents rely on *Burnham*, *Padilla*, and a line of nonbinding district court decisions to argue that NTPSA has “no preclusive effect” here. But that argument attacks a strawman. Petitioner filed this habeas petition in the district of confinement and named both his immediate custodian and the federal officials who control his detention. This Court therefore is not being asked to exercise habeas jurisdiction over a California custodian or to enforce a Northern District of California writ in Texas. Rather, this Court is being asked to adjudicate this Texas habeas petition while recognizing that DHS—the same agency appearing as a respondent here—was itself a party to NTPSA and remains subject to the legal consequences of that litigation as to covered NTPSA members.

The Government's string citation to nonbinding district court cases does not change that. Most of those cases treated NTPSA as if the petitioner were trying to use a California

order as a free-standing release order outside the issuing district. That is not Petitioner's theory. Nor do those cases grapple with the March 18, 2026, order denying vacatur and the March 26, 2026, mandate that now undercut Respondents' premise that NTPSA I somehow vanished.

II. RESPONDENTS HAVE NOT DEFEATED PETITIONER'S INDEPENDENT TPS-BASED STATUTORY CLAIM

Congress separately provided that a noncitizen "*provided temporary protected status*" "*shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.*" 8 U.S.C. § 1254a(d)(4). Petitioner's statutory claim rests on that distinct detention bar, not merely on the Section 1225-versus-1226 dispute addressed in *Buenrostro-Mendez*.

Respondents answer that claim only by reasserting the same merits premise challenged in NTPSA: that Petitioner's TPS simply terminated and that he therefore lost the protection of § 1254a(d)(4). But Respondents do so without addressing the later NTPSA developments discussed above, without addressing Petitioner's allegation that he is a covered NTPSA member, and without addressing the Government's party-bound obligations arising from that litigation.

Nor does Respondents' evidentiary objection carry the day at this stage. Petitioner's Petition alleged that he timely re-registered within the recognized window, that DHS previously granted him TPS, that his prior proceedings were dismissed because of TPS, and that he is an NTPSA member. Pet. ¶¶ 22–30. If Respondents contend that underlying USCIS or A-file records somehow defeat those allegations, those records are in Respondents' possession. On this record, Respondents have not shown that they may disregard § 1254a(d)(4) as applied to this Petitioner.

In all events, the Court need not resolve every aspect of the TPS continuity question to grant relief. Even if the Court reserves the statutory issue for further record development, Petitioner's as-applied due process claim independently warrants habeas relief.

III. BUENROSTRO-MENDEZ DOES NOT FORECLOSE THE PETITIONER'S AS-APPLIED FIFTH AMENDMENT CLAIM

A. Petitioner's constitutional claim is as-applied and case-specific.

Respondents repeatedly recast Petitioner's claim as a generalized attack on detention during removal proceedings. That is incorrect. Petitioner does not argue that every detention under § 1225 is unconstitutional in every case. He argues that, as applied to him, civil detention without any meaningful opportunity for an individualized custody determination violates procedural due process.

That distinction matters. Petitioner is not a person stopped at the border and immediately detained without prior release. He was living in the interior, had already been released, complied with ICE, obtained TPS, and had prior proceedings dismissed. He then appeared voluntarily at a routine ICE appointment and was taken back into custody. Petition ¶¶ 21–30. This case therefore concerns the Government's decision to re-detain a previously released, compliant, interior noncitizen without any neutral determination that detention—rather than less restrictive alternatives—is actually necessary in this particular case.

B. Jennings and Arteaga-Martinez left these constitutional questions open.

Respondents cite *Demore*, *Jennings*, *Parra*, and *Zadvydas* as if those decisions foreclose Petitioner's claim. They do not.

Jennings decided a question of statutory interpretation and expressly declined to reach the constitutional arguments. *Jennings v. Rodriguez*, 583 U.S. 281, 312 (2018).

Arteaga-Martinez likewise rejected a statutory bond-hearing argument while leaving constitutional challenges for the lower courts to address in the first instance. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 583 (2022). And the Supreme Court has recently reaffirmed that “the Fifth Amendment entitles aliens to due process of law” in the removal context. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (cleaned up).

Thus, the existence of a statutory detention provision does not answer the separate constitutional question. “Once it is determined that the due process clause applies, the question remains what process is due.” *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985). Respondents’ attempt to collapse that constitutional inquiry into the statute itself is the same error multiple district courts have rejected.

C. Western District of Texas courts continue to grant relief on precisely this kind of procedural due process claim, including after *Buenrostro-Mendez*.

Western District of Texas decisions have repeatedly recognized that a previously released noncitizen has a significant liberty interest in remaining out of custody and may bring an as-applied procedural due process challenge when re-detained without meaningful individualized process. See *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 681–82 (W.D. Tex. 2025) (holding that once released from immigration detention, noncitizens acquire a “protectable liberty interest in remaining out of custody on bond”); *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *7–14 (W.D. Tex. Oct. 2, 2025) (holding Jennings left constitutional issue open and granting relief on procedural due process grounds); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-773-JKP, 2025 WL 2976923, at *7–8 (W.D. Tex. Oct. 21, 2025) (same).

And those cases did not stop with *Buenrostro-Mendez*. Quite the opposite. In Fajardo Lopez, Judge Cardone held that *Buenrostro-Mendez* “requires denial of the Petition in part as to [the] statutory claim,” but “did not reach the due process question,” and therefore “has no

bearing on this Court's determination of whether [the petitioner] is being detained in violation of her constitutional right to procedural due process." *Fajardo Lopez v. U.S. Dep't of Homeland Sec.*, No. EP-26-CV-532-KC, slip op. at 2–3 (W.D. Tex. Mar. 4, 2026). The court then ordered Respondents either to provide a bond hearing at which the Government bears the burden by clear and convincing evidence or to release the petitioner. *Id.* at 3–4.

Other Western District courts have said the same thing after *Buenrostro-Mendez*. See *Gomez Hernandez v. ICE Field Off. Dir.*, El Paso, Tex., No. 3:26-cv-67-KC, 2026 WL 503958, at *2 (W.D. Tex. Feb. 23, 2026); *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026); *Marceau v. Noem*, No. 3:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex. Feb. 9, 2026); *Aleska Jamaly Bonilla Conforme v. de Anda-Ybarra*, No. EP-26-CV-263-KC, 2026 WL 381110, at *1–3 (W.D. Tex. Feb. 11, 2026). Respondents' effort to portray Buenrostro-Mendez as the end of the constitutional inquiry is therefore incorrect both doctrinally and factually.

D. As applied here, detention without any meaningful bond process violates due process.

The Mathews factors strongly favor relief here.

First, Petitioner's liberty interest is substantial. "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 v. Davis*, 533 U.S. 678, 690 (2001). That interest is especially weighty where, as here, ICE had already released Petitioner, he complied with supervision, and he presented himself at a scheduled check-in rather than absconding. See *Lopez-Arevelo*, 801 F. Supp. 3d at 681–82.

Second, the risk of erroneous deprivation is acute. Respondents' position is that Petitioner may be categorically detained without any bond hearing at all, regardless of his compliance history, regardless of whether less restrictive alternatives would suffice, and

regardless of his TPS posture. That means there has been no neutral, individualized determination of whether this Petitioner is a flight risk, poses any danger, or actually needs to be incarcerated. The value of additional safeguards is obvious: a prompt, meaningful custody hearing would allow a neutral adjudicator to assess the facts of this case instead of imposing incarceration by categorical label alone.

Third, the Government's interest is comparatively weak on this record. Petitioner already proved his willingness to appear by showing up for his appointment. Respondents identify no individualized evidence that he is dangerous, that he is likely to abscond, or that alternatives such as reporting or electronic monitoring would be inadequate. And the Government's interest in swift execution of removal is at least substantially weakened by Petitioner's TPS-based arguments, his NTPSA membership, and the unresolved party-bound consequences of the NTPSA litigation. Civil detention must bear a reasonable relation to a legitimate governmental purpose; where the Government has not shown why this Petitioner must be jailed rather than supervised, due process is not satisfied.

Respondents' emphasis on the current duration of detention misses the point. Petitioner's claim is not solely a "prolonged detention" claim in the *Zadvydas* sense. The constitutional defect here is the front-end denial of any meaningful individualized process in an interior re-detention case involving a previously released and compliant noncitizen. That is why Western District courts have granted relief in materially similar cases without waiting for indefinite detention to accrue.

IV. THE PROPER REMEDY IS RELEASE OR, AT A MINIMUM, A PROMPT CONSTITUTIONALLY ADEQUATE CUSTODY HEARING

Where detention is unlawful, "the typical remedy for such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Immediate release is appropriate here

because Respondents continue to defend categorical detention without individualized process and because Petitioner's circumstances show that less restrictive alternatives plainly suffice.

At a minimum, however, the Court should order a prompt individualized custody hearing before an Immigration Judge or other neutral decisionmaker at which: (1) the Government bears the burden to justify continued detention by clear and convincing evidence; (2) the adjudicator must meaningfully consider less restrictive alternatives; and (3) continued detention may be ordered only upon a specific individualized finding that no less restrictive alternative can reasonably assure appearance and public safety. See *Fajardo Lopez*, No. EP-26-CV-532-KC, slip op. at 3–4. And, as Judge Cardone correctly cautioned, a purported “bond hearing” at which the Immigration Judge denies relief for lack of jurisdiction would not satisfy due process and therefore would require release. *Id.* at 4.

CONCLUSION

Respondents ask this Court to pretend that NTPSA never progressed beyond preliminary relief, that the Ninth Circuit never denied vacatur or issued its mandate, and that Buenrostro-Mendez extinguished all as-applied procedural due process claims. None of those propositions is correct. For the foregoing reasons, the Court should grant the Petition and order Petitioner's immediate release. In the alternative, the Court should order a prompt constitutionally adequate individualized custody hearing with the Government bearing the burden of proof and with meaningful consideration of less restrictive alternatives.

Respectfully submitted, this March 27, 2026

/s/ William B. Shipley

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CERTIFICATE OF SERVICE

I certify that on March 27 2026, a true and correct copy of the foregoing was served through the Court's CM/ECF system on all counsel of record.

/s/ William B. Shipley

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