

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

VICTOR ANDRES MELENDEZ ORTIZ	§	
Petitioner	§	
v.	§	PETITION FOR
	§	WRIT OF HABEAS CORPUS
Warden of the Limestone County Detention Center;	§	PURSUANT TO 28 U.S.C §2241
Bret Bradford, in his official capacity as	§	
Field Office Director of ICE Enforcement and	§	
Removal Operations Houston Field Office;	§	
KRISTI NOEM, in her official capacity as	§	
Secretary of the Department of Homeland	§	
Security;	§	
PAM BONDI, in her official capacity as	§	
Attorney General of the United States,	§	
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 two 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.

Petitioner resided in the United States for nearly five years without incident, supporting his family and maintaining stable employment and residence. Following a single CLASS B MISDEMEANOR OFFENSE, for which he received a three day jail sentence, ICE lodged a detainer and transferred him to immigration custody upon his release from criminal custody. His Class B misdemeanor conviction does not constitute a crime involving moral turpitude, an aggravated felony, or any other offense that triggers mandatory detention under 8 U.S.C. §1226(c). Despite this, ICE now detains him under 8 U.S.C. §1225(b)(2)(A) as an "applicant for admission," based solely on his manner of entry nearly five years ago.

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 two-month detention, following nearly five years of law-abiding residence and stemming from a single minor criminal matter that did not result in any sentence of imprisonment, 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

4. Petitioner is thirty-five years old and has resided in the United States for nearly five years, since 2021.
5. Petitioner and his family live at 
8. Prior to the events described below, Petitioner had never been arrested, detained, or placed in removal proceedings. He had no criminal record of any kind.

2. The Criminal Matter and Disposition

9. On December 14, 2025, Petitioner was arrested by Houston Police Department and charged with CLASS B MISDEMEANOR OFFENSE of Failure to stop and give information in violation Cause No. 259678, in the Harris County Court at Law No. 9.
10. On December 19, 2025, Petitioner entered a plea of guilty and was sentenced to 3 days in jail. He was released on the date of sentencing.
11. Petitioner's Class B misdemeanor conviction does not constitute a crime involving moral turpitude (CIMT) under applicable Board of Immigration Appeals and Fifth Circuit precedent.

12. Specifically, FSGI ACC ATTEND DAMAGE VEH>=\$200 under Texas Transportation Code § 550.022 does not require proof of fraudulent, deceitful, or inherently base conduct—the hallmarks of a CIMT under *Matter of Silva-Trevino*, 26 I&N Dec. 550 (A.G. 2015), and its progeny.

13. Petitioner's conviction is not an aggravated felony under 8 U.S.C. §1101(a)(43). A Class B misdemeanor under Texas law is punishable by a maximum of 180 days' confinement—far below the one-year threshold required for most aggravated felony categories. *See* 8 U.S.C. §1101(a)(43)(F) (requiring sentence of at least one year).

14. Accordingly, Petitioner's conviction does not trigger mandatory detention under 8 U.S.C. §1226(c) and does not constitute a categorical bar to any form of immigration relief for which he is otherwise eligible.

3. ICE Detainer and Transfer to Immigration Custody

15. Prior to or at the time of Petitioner's release from criminal custody, ICE lodged a detainer with Harris County requesting that Petitioner be held for transfer to ICE custody.

16. On December 19, 2025, upon completion of his criminal sentence, Petitioner was transferred directly from Harris County Jail to ICE custody rather than being released.

17. ICE has not issued an Order of Release on Recognizance or afforded Petitioner any individualized determination of flight risk or danger prior to or following his transfer to immigration custody.

18. ICE 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 based solely on his manner of entry nearly five years ago.

19. Petitioner has been continuously detained at Limestone County Processing Center since December 20, 2025—a total of nearly two months to date.

4. Current Removal Proceedings and Likelihood of Relief

20. Petitioner is in removal proceedings before the Conroe Immigration Court.

21. His next master calendar hearing is scheduled for March 3, 2026. ICE has provided no timeline for completion of proceedings.

22. Petitioner has applied for asylum as of 2022.

5. Harm from Continued Detention

23. Petitioner's continued detention causes severe and irreparable harm.

24. **Economic Harm:** Loss of employment and income; his family is unable to pay rent and facing eviction;

25. **Familial Harm:** Separation from his spouse and family;

26. **Inability to Defend Against Removal:** Petitioner is unable to gather documentary evidence for his relief application while in custody; he has limited access to his attorney while in ICE custody one hour per week; he cannot locate witnesses or obtain declarations needed to defend his case.

27. Each day of continued detention exacerbates these harms.

IV. CLAIM FOR RELIEF **VIOLATION OF FIFTH AMENDMENT DUE PROCESS**

28. Petitioner incorporates all preceding paragraphs.

29. 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.

30. 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).

31. Petitioner's detention violates both substantive and procedural due process in multiple, reinforcing ways.

A. Substantive Due Process: Indefinite Detention Without Individualized Determination

32. The Supreme Court has held that indefinite or prolonged civil detention raises "serious constitutional concerns." *Zadvydas*, 533 U.S. at 690.

33. 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.

34. The Supreme Court identified six months as a "presumptively reasonable period" for immigration detention. *Id.* at 701.

35. While Petitioner has been detained for two 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; and
- e. ICE has provided no timeline for completion of proceedings or release from detention.

36. Even though Petitioner has been detained for "only" two 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.

37. 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 manner of entry nearly five years ago, not individualized facts.

38. Critically, the criminal matter that led to ICE's detainer does not alter this analysis:

- a. Petitioner's Class B misdemeanor conviction is not a CIMT, not an aggravated felony, and does not trigger §1226(c) mandatory detention;
- b. ICE has not detained Petitioner under §1226(c) and has not asserted that his conviction independently justifies mandatory detention;
- c. ICE's sole stated basis for mandatory detention is §1225(b)(2)(A)—Petitioner's manner of entry nearly five years ago; and

d. A single Class B misdemeanor guilty plea, standing alone, does not constitute evidence of danger to the community sufficient to justify indefinite preventive detention without any individualized hearing. *See United States v. Salerno*, 481 U.S. 739, 748 (1987).

39. 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. *Salerno*, 481 U.S. at 748.

40. All evidence demonstrates Petitioner poses neither risk:

a. Petitioner resided in the United States for nearly five years with zero criminal history prior to this single Class B offense;

b. The Class B conviction does not reflect violence, threat, fraud, or any conduct suggesting a pattern of disregard for law or community safety;

c. Petitioner voluntarily reported for ICE check-ins and court appearances, demonstrating willingness to comply with legal obligations;

d. Petitioner has deep family ties, stable residence history, and strong incentive to remain present and contest removal; and

e. No decision-maker has ever found, on an individualized basis, that Petitioner presents a danger or flight risk.

41. Petitioner's detention is purely categorical—based solely on his legal classification as an "applicant for admission" due to manner of entry nearly five years ago—and is not supported by any individualized finding that he personally requires detention.

42. This categorical, indefinite detention without individualized determination violates substantive due process.

B. Procedural Due Process: Complete Deprivation of Hearing

43. The Fifth Amendment requires meaningful procedural protections before deprivation of physical liberty—one of the most fundamental interests protected by the Constitution.

44. 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.

45. Applying the *Mathews* balancing test here, the constitutional scales tip overwhelmingly in favor of providing Petitioner a hearing.

46. **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 family members who depend on him;
- d. His detention prevents him from effectively defending against removal; and
- e. Each day of detention causes harms that cannot be remedied through monetary compensation.

47. **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 nearly five years ago;
- c. No decision-maker has considered Petitioner's individual circumstances, family ties, nearly five-year residence history, or demonstrated lack of flight risk;

d. The criminal matter that triggered the detainer has not been evaluated in any individualized flight-risk or danger analysis—it was used solely as a mechanism to transfer Petitioner to ICE custody, not as an independent basis for mandatory detention; and

e. A hearing before a neutral decision-maker would dramatically reduce the risk of erroneous deprivation at minimal cost, as such hearings occur routinely under §1226(a) for similarly situated individuals.

48. Third Factor: Government Interest. The government's interests are preventing flight and protecting public safety. However:

a. Those interests are not served by detaining someone whose single, non-violent, non-CIMT Class B conviction does not reflect a pattern of dangerous conduct or disregard for legal obligations;

b. A hearing would impose minimal administrative burden, as ICE routinely conducts individualized assessments under §1226(a); and

c. The government's interest in uniform application of §1225(b)(2)(A) does not outweigh fundamental liberty interests, particularly where the triggering criminal conviction does not independently support mandatory detention.

49. 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.

50. 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.

51. 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.

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

C. Equal Protection: Arbitrary Classification

53. 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).

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

55. Respondents treat Petitioner—who entered the United States without inspection nearly five years ago and has a single Class B misdemeanor—fundamentally differently from a noncitizen who entered lawfully, overstayed a visa, and has an identical or worse criminal history.

56. 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 or comparable criminal histories (a single Class B misdemeanor or equivalent);
- d. Both have identical equities (length of presence, U.S. citizen family, employment, community ties); and

e. Both may be eligible for the same forms of relief from removal.

57. Yet the government treats them completely differently:

a. The visa overstay with an equivalent criminal history 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, considering the criminal history alongside all other factors;

c. If the noncitizen proves he is not a flight risk or danger, the judge may order release on bond; and

d. In contrast, Petitioner receives mandatory detention under §1225(b)(2)(A) with no hearing whatsoever—despite having an objectively comparable or lesser criminal history.

58. The irrationality of this classification is stark: the noncitizen detained under §1226(a) gets individualized review of a potentially worse criminal history, while Petitioner—whose single Class B conviction does not independently justify mandatory detention under any provision of the INA—receives no review at all.

59. This differential treatment bears no rational relationship to the government's stated interests in preventing flight and protecting public safety, and violates equal protection.

D. As-Applied Constitutional Challenge

60. Even if §1225(b)(2)(A) could be constitutionally applied to some individuals in some circumstances, its application to Petitioner violates the Constitution.

61. Petitioner presents the precise scenario where mandatory detention without a hearing cannot be constitutionally sustained:

a. Long-term U.S. resident for nearly five with deep community and family ties;

- b. Single Class B misdemeanor conviction that is not a CIMT, not an aggravated felony, and does not independently trigger §1226(c) mandatory detention;
- c. No individualized finding by any authority that Petitioner is a danger or flight risk;
- d. Indefinite detention with no timeline for completion of proceedings;
- e. Strong case for relief from removal; and
- f. Severe, irreparable harm from continued detention.

62. 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.

63. Petitioner's case makes these concerns concrete. The government is using a detainer triggered by a minor criminal matter—one that does not independently justify mandatory detention under §1226(c)—as a vehicle to impose mandatory detention under §1225(b)(2)(A) without any individualized review. This is precisely the type of as-applied challenge the Fifth Circuit did not address and could not foreclose.

64. For all these reasons, Petitioner's continued detention violates the Fifth Amendment's guarantee of due process and equal protection.

V. PRAYER FOR RELIEF

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

VI. VERIFICATION

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

Respectfully submitted,
/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner
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CERTIFICATE OF SERVICE

On February 22, 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 Warden of the Limestone County Detention Center, at the Immigration and Customs Enforcement ("ICE"), located at 910 N. Tyus St., Groesbeck, TX 76642.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

February 22, 2026
Date

CERTIFICATE OF SERVICE

On February 22, 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 Dr., Houston, TX 77060

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

February 22, 2026
Date

CERTIFICATE OF SERVICE

On February 22, 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
Matthew Mendez
Attorney for Petitioner

February 22, 2026
Date

CERTIFICATE OF SERVICE

On February 22, 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
usatxw.civil.immigration.notices@usdoj.gov.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

February 22, 2026
Date