

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ABUNDIO MELO MARTINEZ

Petitioner

v.

BOBBY THOMPSON, Warden at South Texas Detention
Center (Pearsall);

MIGUEL VERGARA, San Antonio Field Office Director,
ICE Enforcement and Removal Operations;

TODD LYONS, Acting Director, U.S. Immigration and
Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of Homeland
Security;

PAMELA JO BONDI, Attorney General, U.S. Department
of Justice

Respondents

Case No. 26-cv-1156

PETITIONER'S REPLY TO RESPONDENTS'

RESPONSE

NOW COMES Petitioner, Abundio Melo Martinez by and through his undersigned
counsel, and files this Reply in accordance with the Court's Order dated March 4, 2026.

**I. The Government's Admission That the Warrant Was Issued After Arrest Confirms
the Fourth Amendment Violation**

1. The Government's response inadvertently confirms the very constitutional defect
Petitioner challenges. According to the Government's own filing, the warrant authorizing

Petitioner's arrest was issued on September 23, 2025, one day after ICE had already taken Petitioner into custody. See Gov't Resp. at 12; Ex. A, Form I-200. By the Government's own admission, therefore, Petitioner was arrested first and the warrant was created later.

2. That sequence of events does not cure the constitutional problem; it confirms it. A warrant, by definition, is an authorization issued before a seizure occurs. Its function is to supply legal justification for the arrest at the moment the Government restrains a person's liberty. A warrant issued after the fact cannot retroactively transform a warrantless arrest into a lawful one. The Government's position would invert the entire purpose of the warrant requirement by allowing officers to seize an individual first and then generate the legal authorization afterward.
3. The Fourth Amendment requires that a seizure be justified at its inception. Under the framework articulated in *Terry v. Ohio*, the Court evaluates whether the officer's action was justified at the moment the seizure began and whether the intrusion was reasonably related in scope to the circumstances justifying it. If no warrant existed and no reasonable suspicion or probable cause supported the seizure at the time Petitioner was taken into custody, the arrest fails at the first step of that inquiry. A document created after the seizure cannot supply the constitutional justification that was absent when the detention occurred.
4. The Supreme Court has repeatedly emphasized that the "ultimate touchstone" of the Fourth Amendment is reasonableness. *Riley v. California*, 573 U.S. 373 (2014). That reasonableness must exist when the Government restrains a person's liberty, not after the fact. Likewise, warrantless seizures are presumptively unreasonable unless the Government demonstrates a specific and recognized exception to the warrant requirement. *City of Ontario v. Quon*, 560 U.S. 746 (2010). The Government does not contend that exigent circumstances existed, that

the arrest was incident to a valid warrant, or that officers possessed independent criminal probable cause. Instead, it relies on a warrant generated the day after the arrest.

5. Nor can the Government rely on post-hoc documentation to satisfy the Fourth Amendment's requirement that warrants issue only upon probable cause and with clearly defined authority. As the Court explained in *Kentucky v. King*, 563 U.S. 452 (2011), the scope of governmental intrusion must be justified under established Fourth Amendment principles at the time the intrusion occurs. Here, by the Government's own account, no warrant existed when Petitioner was seized.
6. Finally, if officers crossed the threshold of Petitioner's residence to effectuate the arrest, the constitutional violation becomes even more pronounced. The Supreme Court held in *Payton v. New York*, 445 U.S. 573 (1980), that warrantless and nonconsensual entry into a home to make an arrest is presumptively unreasonable. The Fourth Amendment draws a firm line at the entrance to the home, and that line may not be crossed without a warrant absent exigent circumstances. A warrant issued the following day cannot retroactively authorize such an intrusion.
7. Accordingly, the Government's own timeline confirms that Petitioner was seized without a warrant and without constitutionally sufficient justification at the moment the arrest occurred. Under the Fourth Amendment framework articulated in *Terry*, *Riley*, *Quon*, *Kentucky v. King*, and *Payton*, the legality of a seizure turns on the justification that existed when the Government restrained the individual's liberty. Because the warrant was issued only after the arrest had already occurred, it cannot supply the constitutional basis for the seizure.

The Government's Admission Also Confirms a Violation of the Accardi Doctrine

8. The Government's admission that the warrant was issued one day after Petitioner had already been taken into custody does more than confirm the Fourth Amendment defect discussed above. It also confirms that Respondents failed to comply with the binding regulatory requirements governing warrantless immigration arrests. Under the *Accardi* doctrine, federal agencies are required to follow their own regulations, and agency action taken in violation of those regulations is unlawful. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).
9. Here, Respondents do not dispute that Petitioner was taken into custody on September 22, 2025 without a warrant. They instead assert that ICE issued a Form I-200 warrant the following day, on September 23, 2025. See Gov't Resp. at 12. That concession necessarily establishes that the arrest was executed as a warrantless arrest and therefore was governed by the mandatory regulatory requirements set forth in 8 C.F.R. § 287.8(c).
10. Those regulations impose clear prerequisites on immigration officers conducting a warrantless arrest. Officers must have reason to believe the individual is removable and, critically, must also have reason to believe that the individual is "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii). These requirements are not discretionary. They are binding limitations on ICE's authority designed to prevent arbitrary deprivations of liberty in the interior of the United States.
11. The Government's own timeline makes clear that this regulatory requirement was not satisfied. If officers truly believed that Petitioner was "likely to escape before a warrant could be obtained," the logical course would have been to secure a warrant before or contemporaneously with the arrest. Instead, the Government acknowledges that officers waited until the following day to generate the warrant documentation. That sequence of

events is fundamentally inconsistent with the regulatory predicate required to justify a warrantless arrest.

12. The Government's admission therefore reveals the precise problem the regulation was designed to prevent. Officers proceeded with a warrantless arrest without satisfying the regulatory conditions that permit such an arrest, and only later attempted to formalize the seizure through the issuance of a warrant. Under the *Accardi* doctrine, however, agencies may not disregard their own binding rules governing the exercise of enforcement authority.
13. The Supreme Court has repeatedly held that when an agency fails to comply with regulations that limit its discretion and protect individual liberty, the resulting action is invalid. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. at 267–68; *Morton v. Ruiz*, 415 U.S. at 235. The regulatory requirements governing warrantless immigration arrests are precisely the type of safeguards the *Accardi* doctrine protects.
14. Accordingly, the Government's own statement that the warrant was issued after Petitioner had already been arrested confirms not only that the seizure lacked a warrant at its inception, but also that the arrest occurred without compliance with the mandatory regulatory conditions required for warrantless immigration arrests. Because Respondents failed to follow their own binding regulations, Petitioner's arrest, and the detention that flows from it, violates the *Accardi* doctrine and is unlawful.

II. Physical Liberty Is a Fundamental Right of All "Persons" Under the Fifth Amendment

15. The Government's argument rests on the premise that the constitutional value of physical liberty is diminished when the individual subjected to detention lacks lawful immigration

status. That premise is incompatible with the text of the Constitution and the Supreme Court's due process jurisprudence.

16. The Fifth Amendment protects "persons," not "citizens." *U.S. Const. amend. V*. The Supreme Court has consistently recognized that noncitizens, including those without lawful status and those seeking admission, are "persons" within the meaning of the Due Process Clause when the Government seeks to deprive them of liberty. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (confirming that noncitizens within the United States are entitled to due process protections); *Yamataya v. Fisher*, 189 U.S. 86, 100–01 (1903) (holding that even a noncitizen who had not been lawfully admitted could not be deprived of liberty without due process). Constitutional personhood does not fluctuate based on immigration classification.
17. The Supreme Court has repeatedly described freedom from bodily restraint as a core liberty interest protected against arbitrary governmental action. In *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992), the Court stated that "freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." In *Youngberg v. Romeo*, 457 U.S. 307, 315–16 (1982), the Court recognized that freedom from physical restraint is a historic liberty interest that survives even lawful confinement. In *Zadvydas*, the Court reiterated that "[f]reedom 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." 533 U.S. at 690. None of these pronouncements conditioned the value of liberty on lawful status.
18. The nature of the deprivation, not the legal classification of the individual, defines the constitutional magnitude of the interest. Civil detention entails the same loss of movement, autonomy, family integrity, and personal security regardless of immigration status. The physical restraint imposed by the Government is identical in character. The Constitution's

protection against arbitrary detention does not depend on whether the detained person possesses lawful status; it depends on the fundamental nature of bodily freedom itself.

19. Even in contexts where detention is permitted, such as civil commitment or immigration custody, the Court has required that confinement be justified by adequate procedures and bear a reasonable relation to its purpose. See *Kansas v. Hendricks*, 521 U.S. 346, 356–60 (1997); *Zadvydas*, 533 U.S. at 690–92. The permissibility of detention turns on procedural reliability and substantive justification, not on a diminished valuation of the detainee’s liberty interest.
20. To suggest that physical liberty has reduced constitutional weight for undocumented individuals is to collapse the distinction between substantive immigration regulation and constitutional personhood. Immigration status may affect eligibility for admission or relief, but it does not alter the fundamental character of freedom from physical restraint as a protected liberty interest. Once the Government detains a human being within its custody, the Due Process Clause applies in full measure to that deprivation.
21. Accordingly, the liberty at issue here is not a lesser form of freedom. It is the same core constitutional interest the Supreme Court has repeatedly identified as central to ordered liberty. The Constitution does not assign varying degrees of value to physical freedom based on immigration status. The protection against arbitrary detention attaches because the individual is a person, and because the deprivation is confinement itself.
22. Under the Government’s reasoning, the implications would extend far beyond immigration detention. If constitutional protections are diluted based on immigration status, then the same logic would suggest that undocumented individuals, or even noncitizens present on temporary visas, possess lesser Fifth Amendment protection against self-incrimination or diminished Eighth Amendment protection in seeking bond in a criminal proceeding. That is not, and has

ever been, the law. A noncitizen arrested within the United States, whether present on a student visa or without lawful status, retains the right to remain silent, the right to counsel, and the protection against excessive bail. These safeguards attach because the individual is a “person” subject to the sovereign power of the United States and because their freedom is at risk, not because of immigration classification. And if the Constitution’s protections were truly contingent on status, would we accept that American citizens abroad should receive diminished protections from foreign governments on the same theory. The constitutional tradition of this Nation rejects that premise. Fundamental guarantees do not fluctuate based on status or alienage; they constrain governmental power over all persons within its jurisdiction.

III. Physical Liberty Is a Fundamental Interest Requiring Robust Procedural Safeguards Under *Mathews*

23. The Government’s attempt to remove this case from the framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), ignores the Supreme Court’s consistent recognition that freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. This claim does not challenge Congress’s substantive authority to regulate immigration or to authorize detention in defined circumstances. Rather, it challenges the adequacy of the procedures used to determine whether detention is justified in this case. That is a classic procedural due process claim governed by *Mathews*, 424 U.S.
24. The weight of the private interest in the *Mathews* balance is decisive. The Supreme Court has repeatedly emphasized that “freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. (1992). In invalidating continued confinement where its justification had lapsed, the Court

underscored that civil commitment “for any purpose” constitutes a significant deprivation of liberty requiring due process protection. Similarly, the Court has held that the right to personal security and freedom from bodily restraint is a historic liberty interest that survives even lawful confinement. *Youngberg v. Romeo*, 457 U.S. 307, 315–16 (1982). Lawful custody does not extinguish constitutional protections; it demands constitutional justification.

25. Even where the Court has upheld civil detention statutes, it has done so only upon a showing of narrowly defined circumstances and sufficient procedural safeguards. In *Kansas v. Hendricks*, 521 U.S. 346, (1997), the Court acknowledged that freedom from physical restraint is a core liberty interest and sustained civil commitment only because it applied to a limited subclass of dangerous individuals and was supported by appropriate procedures and evidentiary standards. The constitutional permissibility of confinement thus turned on procedural reliability and the presence of adequate safeguards.
26. The same principle governs in the immigration context. In *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), the Court reiterated that “[f]reedom 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.” The Court held that civil detention must bear a reasonable relation to its purpose and may not become indefinite or arbitrary. The constitutional concern was not theoretical; it centered on the risk of unjustified and prolonged physical restraint.
27. Likewise, the Court has recognized a substantial liberty interest in avoiding institutional confinement absent adequate procedures tailored to minimize erroneous deprivation. *Zinerman v. Burch*, 494 U.S. 113, 127–31 (1990). Due process requires procedures calibrated

to the nature of the deprivation and the risk of error. Even in *Reno v. Flores*, 507 U.S. (1993), where the Court rejected a substantive due process challenge, it reaffirmed that freedom from institutional confinement is a constitutionally protected interest and that any deprivation must be justified by sufficiently compelling governmental interests.

28. Against this backdrop, the Government's attempt to limit *Mathews* to cases involving lesser statutory entitlements is untenable. In *Mathews* itself, the Court required procedural balancing before termination of disability benefits; an important property interest, but one categorically less fundamental than physical liberty. If procedural safeguards were constitutionally required before the deprivation of financial benefits, they apply with greater force where the Government seeks to deprive an individual of freedom from physical restraint.

29. Accordingly, the present claim falls squarely within the procedural due process framework. It does not assert that detention is categorically impermissible "no matter what process is provided," rather, it challenges whether the procedures employed are constitutionally sufficient before imposing one of the most serious deprivations the government can effect, civil detention. Under *Mathews* and the Supreme Court's repeated recognition that physical liberty is a fundamental constitutional interest, meaningful and individualized procedural safeguards are required.

IV. Mandatory Detention Under § 1225(b)(2) Implicates Fundamental Liberty Interests and Is Not Controlled by Demore or Historical Bail Practices

30. Respondent's reliance on *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003), is misplaced. In *Doe*, the plaintiff did not challenge the constitutionality of the statutory scheme itself. Rather, he sought an additional hearing to prove a fact, current

dangerousness, that was irrelevant under the governing statute, which required registration solely on the basis of a prior conviction. The Supreme Court rejected that procedural due process claim because the requested factual determination had no bearing on the statutory consequence. The Court made clear that where a litigant believes the statutory rule itself is constitutionally defective, the proper challenge is substantive in nature.

31. That is precisely the posture of this case. Petitioner does not seek a different factual finding as to his classification as an “applicant for admission,” nor does he request an additional hearing to contest a fact rendered immaterial by statute. Instead, Petitioner challenges the constitutionality of mandatory civil detention under 8 U.S.C. § 1225(b)(2)(A) itself. The claim is that automatic, potentially prolonged incarceration without an individualized bond hearing violates substantive due process, even assuming the statutory classification applies. Unlike in *Doe*, Petitioner squarely contests the validity of the rule authorizing detention, not the adequacy of procedures implementing it.

32. Respondent’s position effectively assumes that once Congress has labeled an individual an “applicant for admission,” detention automatically comports with the Fifth Amendment. That premise is incorrect. Statutory classification does not insulate a detention scheme from constitutional scrutiny. The Constitution independently requires that civil confinement bear a reasonable relationship to its asserted purposes and not be excessive in relation to those purposes. Where detention is imposed categorically, without any individualized determination of flight risk or danger, and without meaningful temporal limits, the Court must assess whether the deprivation of physical liberty is arbitrary or disproportionate. The question presented here is not whether the statute authorizes detention, but whether the Constitution permits detention in this manner.

33. Moreover, the liberty deprivation at issue is qualitatively different from the regulatory obligation in *Doe*. The statute in *Doe* required public registration; it did not impose physical incarceration. Section 1225(b)(2)(A), by contrast, authorizes civil detention, complete restraint on bodily freedom. Freedom from physical confinement lies at the core of substantive due process protection. Petitioner's claim therefore challenges the validity of the detention framework itself, asserting that automatic civil incarceration without individualized justification exceeds constitutional limits. That is a substantive constitutional challenge, not a request for additional procedure, and *Doe* does not resolve it.

V. *Demore v. Kim* Does Not Control Because It Involved a Different Statutory Scheme and a Narrow Category of Mandatory Detention

34. The Government's reliance on *Demore v. Kim*, 538 U.S. 510 (2003), is misplaced. *Demore* addressed mandatory detention under 8 U.S.C. § 1226(c), a statute that applies to a narrowly defined class of noncitizens with specified criminal convictions. The Supreme Court's reasoning in *Demore* was explicitly tied to Congress's determination that certain criminal aliens posed heightened risks of flight and danger to the community. *Id.* at 518–21.

35. That statutory framework is fundamentally distinct from § 1225(b)(2). Section 1226(c) is triggered by criminal conduct. It reflects a legislative judgment tied to individualized culpability categories—convictions for enumerated offenses that Congress deemed sufficiently serious to justify mandatory detention during removal proceedings.

36. By contrast, § 1225(b)(2), as applied here, imposes mandatory detention solely based on the legal classification of “applicant for admission.” It does not turn on criminal conduct, individualized dangerousness, or demonstrated flight risk. It operates categorically, without presumption tied to wrongdoing and without any procedural mechanism for individualized

review.

37. Demore therefore cannot be extended mechanically to this case. The Supreme Court upheld detention in Demore within the specific context of criminal-based mandatory detention and emphasized the limited duration of such confinement. 538 U.S. at 529–30. The reasoning cannot be transposed wholesale to a statutory scheme that detains individuals without any criminal predicate and without any individualized determination.

VI. The Government’s “Rational Basis” Framing Oversimplifies the Liberty Interest at Stake

38. Even assuming *arguendo* that rational-basis review applies, detention under § 1225(b)(2) as implemented here does not automatically “clear the bar.” Civil detention must still be rationally related to legitimate governmental interests in ensuring appearance and protecting the community. See *Zadvydas*, 533 U.S. at 690.
39. Where detention is imposed categorically, without individualized assessment, and without regard to actual risk factors, the relationship between confinement and the asserted governmental interests becomes attenuated. The Government cannot rely solely on statutory labeling to satisfy constitutional scrutiny. A regime that detains individuals indefinitely or for prolonged periods without any opportunity to demonstrate lack of flight risk or danger raises serious constitutional concerns, even under deferential review.
40. The Government’s argument effectively converts “rational basis” into “no review at all.” That is not the law. Even in the immigration context, courts retain the authority to ensure that civil detention is not arbitrary.
41. Mandatory detention is not rationally related to the government’s stated objectives because it requires confinement without any individualized determination that detention is

actually necessary to achieve those goals. The government typically asserts several legitimate interests: ensuring that noncitizens appear for their immigration proceedings, protecting public safety, and effectively executing removal orders when they are issued. However, a mandatory detention scheme applies regardless of whether those concerns are present in a particular case. Individuals may be detained even when they have strong family ties in the United States, stable employment, a long history of compliance with court proceedings, and no criminal history suggesting danger to the community. Because the statute requires detention without allowing any neutral decision-maker to evaluate whether the individual actually poses a flight risk or public safety concern, the classification used by the statute does not meaningfully correspond to the risks the government claims to address. At the same time, the structure and operation of the immigration system itself demonstrate that detention is not necessary to enforce removal proceedings. Millions of noncitizens litigate their cases each year on the non-detained docket, appearing for hearings, pursuing relief, and complying with court orders while living in the community. Likewise, individuals who are ultimately ordered removed frequently depart the United States without ever being detained, including through voluntary departure and other supervised processes that allow them to arrange their own departure. Even with respect to the government's interest in executing removal orders, recent aggressive enforcement operations across the country have unmistakably demonstrated that the government possesses the means, the logistical capacity, and the institutional ability to locate and detain individuals who are subject to final orders of removal when it determines that enforcement action is necessary. These realities confirm that detention throughout the entire course of removal proceedings is not required to achieve the government's enforcement objectives, undermining the claim that mandatory detention

is reasonably connected to those interests.

VII. The Government's Reliance on *Wong Wing* and Historical Detention Language Is Overextended

42. The quotation from *Wong Wing v. United States*, 163 U.S. 228 (1896), does not authorize indefinite or unreviewable detention. *Wong Wing* recognized the Government's authority to detain noncitizens pending removal proceedings. It did not hold that such detention may occur without procedural safeguards, without individualized consideration, or for prolonged periods without review.

43. Subsequent precedent, including *Zadvydas*, confirms that immigration detention is subject to constitutional limitations. The Government's invocation of historical language cannot eliminate the requirement that civil confinement bear a reasonable and non-arbitrary relationship to its purpose.

Detention Is Not Inherent to the Removal Process

44. The government suggests that Petitioner's detention is simply part of the ordinary removal process. That assertion is incorrect and rests on a fundamentally flawed premise. While immigration detention may occur in some cases, it is not an inherent or necessary component of removal proceedings.

45. Removal proceedings in the United States routinely occur without detention. Each year, hundreds of thousands of noncitizens are placed in removal proceedings while remaining in the community on the non-detained docket. Those individuals fully litigate their cases before the immigration courts while living with their families and continuing their daily lives. They appear for hearings, present evidence, apply for relief from removal, and challenge adverse decisions through appeals to the Board of Immigration Appeals and petitions for review in

the federal courts. None of these steps requires physical confinement by the government.

46. The government's position incorrectly assumes that detention is a structural feature of the removal process. In reality, the immigration system has long functioned through both detained and non-detained proceedings, with the latter representing a substantial portion of immigration cases nationwide and reserving the detained docket for cases in which there is a serious and articulable concern of risk of flight or danger to the community. The continued operation of the non-detained docket demonstrates that immigration adjudication does not depend on physical custody.
47. The same principle applies even after a removal order is entered. Noncitizens frequently depart the United States without ever being detained, including through voluntary departure, which allows individuals to arrange their own travel, conclude employment and family matters, and leave the country on their own terms. These longstanding procedures further illustrate that detention is not a prerequisite to carrying out immigration laws or effectuating removal.
48. The government's attempt to characterize detention as a routine or inevitable component of the removal process therefore misstates how the immigration system actually operates. Detention is merely one enforcement tool available to the government, not a necessary condition for immigration proceedings to occur.
49. Petitioner's case illustrates this point. His immigration proceedings could continue in precisely the same manner on the non-detained docket, as occurs in countless cases across the country. He could attend hearings, pursue available relief, and comply with the court's orders while living in the community under appropriate conditions of supervision. Continued physical confinement is therefore not required to ensure the progress or integrity

of the removal proceedings.

50. Because the government cannot show that detention is necessary to carry out the removal process in Petitioner's case, its attempt to justify continued confinement on that basis fails. The Constitution does not permit the government to deprive an individual of physical liberty simply because removal proceedings are pending, particularly where those same proceedings routinely occur without detention

VIII. Supplemental Authority Confirming that Mandatory Detention Under § 1225(b)(2) Raises Serious Constitutional Concerns in the Fifth Circuit

51. The constitutional principles discussed above are not theoretical. Federal district courts within the Fifth Circuit, including multiple courts in Texas, have repeatedly recognized that prolonged mandatory detention under 8 U.S.C. § 1225(b)(2) without an individualized determination of flight risk or dangerousness raises serious procedural due process concerns and may violate the Fifth Amendment.
52. Federal district courts in Texas have found that detention under § 1225(b)(2) without individualized review can violate a noncitizen's constitutional right to due process. See, e.g., *Vieira*, 2025 WL 2937880, at *7 ("In sum, Section 1225(b)(2) as applied to Petitioner violates his Fifth Amendment Due Process rights."); *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, at *3 (W.D. Tex. Oct. 21, 2025) ("[T]he Court does not reach the statutory interpretation question because, assuming without finding that the Government's new interpretation is correct, [petitioner] is entitled to due process and succeeds in his as-applied challenge."); *Ortega-Aguirre v. Noem*, No. 4:25-CV-04332, 2025 WL 3684697, at *3 (S.D. Tex. Oct. 10, 2025) ("Here, the Court finds that Petitioner is likely to prevail on the merits of his due process claim because he 'has been detained since August of 2025 without

any individualized assessment of flight risk or dangerousness.”); *Cordova v. Noem*, No. 3:26-CV-97-K-BN, 2026 WL 218938, at *3 (N.D. Tex. Jan. 28, 2026) (“[T]he Court holds that denying Petitioner a bond hearing under § 1225(b)(2) deprives him of procedural due process protections under the Fifth Amendment.”); *Camacho-Gutierrez v. Thompson*, No. 5:25-CV-01876-MA, 2026 WL 195758, at *5 (W.D. Tex. Jan. 16, 2026) (“[T]he Court finds that Petitioner’s detention without any notice or an individualized assessment deprives her of the constitutional right to procedural due process.”); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025) (finding “that detaining [petitioner] without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process,” and collecting cases); *George v. Noem*, No. 3:25-CV-2935-S-BW, 2025 WL 3852946, at *4 (N.D. Tex. Dec. 19, 2025), report and recommendation adopted, No. 3:25-CV-02935-S-BW, 2026 WL 30829 (N.D. Tex. Jan. 5, 2026) (“[D]etaining [petitioner] without a bond hearing violates his Fifth Amendment rights.”).

53. Federal district courts in Texas have also reached these conclusions after the Fifth Circuit issued its decision in *Buenrostro-Mendez*. See, e.g., *Hassen v. Noem*, No. EP-26-CV-00048-DB, 2026 WL 446506, at *2 & n.1 (W.D. Tex. Feb. 9, 2026) (holding that *Buenrostro-Mendez* “does not change this case’s outcome on procedural due process grounds”); *Clemente Ceballos v. Garite*, No. EP-26-CV-00312-DB, 2026 WL 446509, at *2 & n.2 (W.D. Tex. Feb. 10, 2026) (same); *Marceau v. Noem*, No. EP-26-CV-237-KC, 2026 WL 368953 (W.D. Tex. Feb. 9, 2026) (“The Court’s conclusion is not changed by the Fifth Circuit’s recent decision in *Buenrostro-Mendez* . . . *Buenrostro-Mendez* has no bearing on this Court’s determination of whether [petitioner] is being detained in violation of [his]

constitutional right to procedural due process.”).

54. These decisions demonstrate a consistent recognition among federal courts within this Circuit that detention under § 1225(b)(2) without individualized review implicates the fundamental liberty interests protected by the Fifth Amendment. Where detention is imposed automatically and prolonged without a bond hearing or other individualized assessment, courts have concluded that habeas relief is warranted on constitutional grounds.
55. The uniform thread running through these cases is the same constitutional principle discussed above: civil detention that restrains physical liberty without meaningful individualized safeguards presents a serious risk of erroneous deprivation of freedom. Courts in this Circuit have therefore concluded that, even where the statutory framework authorizes detention, the Constitution requires procedures sufficient to ensure that continued confinement is justified.
56. These authorities confirm that the due process concerns raised here are not novel or a refabrication of the same arguments as the Government suggest. Federal courts within the Fifth Circuit have repeatedly granted habeas relief where noncitizens were subjected to mandatory detention under § 1225(b)(2) without individualized review, recognizing that such detention raises substantial constitutional questions under the Fifth Amendment’s guarantee of due process.

IV. Conclusion

57. Respondents’ own admissions confirm that Petitioner was arrested without a warrant and that the warrant was issued only after he was already in custody. A post-hoc warrant cannot retroactively justify a seizure, nor may the Government disregard the binding regulatory

safeguards governing warrantless immigration arrests. The arrest, and the detention that flows from it, are therefore unlawful.

58. Independently, Petitioner's continued mandatory detention under § 1225(b)(2), without any individualized determination of flight risk or dangerousness, violates the Fifth Amendment. Physical liberty is a fundamental constitutional interest, and civil confinement cannot be imposed categorically without meaningful procedural safeguards.

59. Accordingly, Petitioner respectfully requests that this Court grant the writ of habeas corpus and order his immediate release. In the alternative, Petitioner requests a prompt, constitutionally adequate, individualized custody determination before a neutral decisionmaker with authority to order release, at which the Government bears the burden of justifying continued detention. Petitioner further requests that this Court retain jurisdiction to ensure compliance with its Order.

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

Dated: March 16, 2026.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2026, a true and correct copy of the foregoing **PETITIONER'S REPLY TO RESPONDENTS' RESPONSE** was served electronically through the Court's CM/ECF system, which will provide notice and a copy to all counsel of record, including the United States Attorney's Office for the Western District of Texas.

Dated: March 16, 2026

Respectfully submitted,



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