UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

MANUEL SEGUNDO ZHUNIO UYAGUARI Petitioner, v. WARDEN, RIO GRANDE PROCESSING CENTER; MIGUEL VERGARA, Director of Harlingen Field Office, U.S. Immigration and Customs Enforcement; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and, PAMELA BONDI, United States Attorney General, in their official capacities, Respondents.	Case No. 5:26-cv-398 **PETITION FOR WRIT OF HABEAS CORPUS**

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE AND MOTION FOR SUMMARY JUDGMENT

Petitioner, by and through undersigned counsel, submits this reply in opposition to Respondents' Response to his Petition for Writ of Habeas Corpus and Motion for Summary Judgment. Dkt. 9. Respondents raise multiple arguments against the instant Petition; however, none have merit as discussed below. Accordingly, Petitioner respectfully requests that this Court grant his Petition and order his immediate release from ICE custody, or alternatively, order that he be provided with a bond hearing before an immigration judge.

ARGUMENT

I. The Fifth Circuit in *Buenrostro-Mendez v. Bondi* Decided the Case Solely on Statutory Grounds, and Therefore, Petitioner's Constitutional Claims Are Not Foreclosed.

While the Fifth Circuit in *Buenrostro-Mendez v. Bondi* held that noncitizens such as Petitioner are detained under 8 U.S.C. § 1225(b)(2)(A), its analysis and holding were based on statutory interpretation. 166 F.4th 494, 498 (5th Cir. 2026) ("*The statutory interpretation issue* posed by these alien petitioners is novel but not recondite." (emphasis added)). The *Buenrostro* panel, however, did not address the constitutionality of 8 U.S.C. § 1225(b)(2)(A) detention without a bond hearing. *See, e.g.*, *Bonilla Chicas v. Warden*, --- F.Supp.3d ---, 2026 WL 539475, at *5 (S.D. Tex. Mar. 2, 2026) ("As Petitioner accurately claims, *Buenrostro-Mendez* did not address the Due Process Clause of the Fifth Amendment."). Therefore, contrary to Respondents' assertion, Dkt. 9 at 2–5, *Buenrostro-Mendez* has no bearing on, and does not foreclose, the instant Petition in which Petitioner challenges the constitutionality of 8 U.S.C. § 1225(b)(2)(A) as applied to him, Dkt. 1 at ¶¶ 48–52.

II. Petitioner is Detained in Violation of His Due Process Rights under the U.S. Constitution.

Respondents contend that Petitioner's due process claims necessarily fail for three reasons. First, according to Respondents, Petitioner's procedural due process challenge at this juncture cannot succeed because the statute mandates his detention. Dkt. 9 at 5–7. Second, Respondents argue that, even if there was a viable procedural due process claim, it would be destined to fail because the statute contemplates no additional process for him, including a bond hearing. *Id.* at 7–9. Third, Respondents assert that Petitioner cannot establish a valid substantive due process claim because detention during the pendency of removal proceedings is a constitutionally valid aspect of the process. *Id.* at 9–11.

Respondents are incorrect in all respects. Petitioner, by virtue of the extensive ties to the United States he has established over the past four and a half years, possesses a protected liberty interest in freedom against imprisonment, which entitles him to both procedural and substantive protections under the Due Process Clause of the Fifth Amendment, regardless of what the statute provides. The various Supreme Court cases Respondents cite in support of their position do not aid them one bit.

a. Even if the Statute Requires His Detention, Petitioner Nonetheless Has a Valid, As-Applied Procedural Due Process Challenge.

Respondents first claim that any procedural due process challenges to the legality of his detention must fail because 8 U.S.C. § 1225(b)(2)(A) requires detention. Dkt. 9 at 5–7. In support of this proposition, they primarily rely on the Supreme Court's decision in *Connecticut Dep't of Pub. Safety v. Doe* in which the Court reversed the Second Circuit, holding that a petitioner "who assert[s] a right to a hearing under the [procedural] Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme." 538 U.S. 1, 8 (2003). According to Respondents, the instant Petition, to the extent that it alleges a violation of Petitioner's procedural due process rights, fails because he cannot show that dangerousness and flight risk – two factors typically assessed at an immigration bond hearing – are relevant under the statutory scheme which mandates his detention regardless of those factors.

But Respondents' reliance on *Doe* is misplaced for at least two reasons. First, *Doe* arose in the context of sex offender registry law, *not* detention. *See, e.g.*, *Hernandez v. ICE Field Office Director*, 2026 WL 503958, at *2 (W.D. Tex. Feb. 23, 2026) (finding *Doe* inapplicable to immigration detention cases because it arose in an entirely different context). Specifically, *Doe* concerned a Connecticut state law requiring that information about convicted sex offenders be compiled and publicized regardless of their current dangerousness. 538 U.S. at 5. And although

the Supreme Court resolved the case without reaching the question of its cognizability under the Constitution, the alleged liberty interest at issue was the convicted sex offender's reputation, not their physical liberty. *Id.* at 6–7.

By contrast, here, the liberty interest at stake is Petitioner's physical freedom – which, "in our society . . . is the norm," *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)). Indeed, the Supreme Court has time and time again recognized that "[f]reedom against imprisonment . . . lies at the heart of the liberty that [the Due Process] Clause protects," *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), and that "[w]hen protected interests are implicated, the right to some kind of *prior hearing* is *paramount*," *Bd. of Regents v. Roth*, 408 U.S. 564, 569–70 (1972) (emphases added); *see also Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950) (holding that the Due Process Clause requires "at a minimum . . . that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing"). Hence, mechanically applying the Supreme Court's holding in *Doe* – which Respondents urge this Court to do – is inapposite in this case.[1]

Second, even assuming *Doe* is controlling here, Respondents are incorrect that Petitioner's dangerousness and flight risk are wholly irrelevant under the statutory scheme. 8 U.S.C. § 1225(b)(2)(A) does not mandate detention under all circumstances, as noncitizens detained under this statutory provision may still be released on parole under 8 U.S.C. § 1182(d)(5)(A) for "humanitarian reasons or significant public benefit" insofar as "[they] present neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b). Thus, unlike in *Doe*, an

[1] Similarly, none of the other cases Respondents cite in support of their position, Dkt. 9 at 6, involve a liberty interest in freedom from imprisonment. *See Reno v. Flores*, 507 U.S. 292, 302 (1993) ("The freedom from physical restraint invoked by respondents is not at issue in this case." (internal quotation marks omitted)); *Michael H. v. Gerald D.*, 491 U.S. 110, 121 (1989) (involving a parent's liberty interest in a relationship with their child); *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017) (involving a convicted sex offender's ability to reside in the location of their choice).

inquiry into whether Petitioner is a danger to community or a flight risk is *not* irrelevant here. *Molina-Sanchez v. Bondi*, 2026 WL 752002, at *3 (W.D. Tex. Mar. 13, 2026).

Contrary to Respondents' assertion, Petitioner's procedural due process claim is valid and has merits. In the instant action, he brings an as-applied constitutional challenge – that is, "whether [8 U.S.C. § 1225(b)(2)(A)] – though constitutional in some circumstances – is nonetheless unconstitutional as applied to [Respondents'] activity." *United States v. Morgan*, 147 F.4th 522, 526 (5th Cir. 2025) (quoting *Spence v. Washington*, 418 U.S. 405, 414 (1974)) (internal quotation marks omitted). This is so because his unique circumstances, including his length of residence in the United States and his extensive ties to this country, have given rise to a protected liberty interest in freedom from imprisonment. *See, e.g.*, *Chinchilla v. De Anda-Ybarra*, 2025 WL 3645178, at *5 (W.D. Tex. Dec. 16, 2025) (finding that a petitioner who had lived in the "United States for over four years and attends his local church" acquired "a strong liberty interest in his freedom from detention because he has established a life here"); *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at * 9 (W.D. Tex. Oct. 21, 2025) ("Because he spent nearly three years at liberty in the United States, [the petitioner] possesses a cognizable interest in his freedom from detention.").

Indeed, since entering the United States in July 2021,[2] Petitioner has resided in the country for nearly five years and has worked in construction for four of those years. Dkt. 1 at ¶¶ 3, 23–24. Additionally, he has filed an application for asylum in this country in search of protection from persecution and to make it his permanent place of abode. *Id.* at ¶¶ 5, 26. By virtue of these factors, Petitioner has a cognizable liberty interest in freedom from detention that

[2] Respondents stated in their response that "Petitioner entered the U.S. without inspection in 2007." Dkt. 9 at 2 (citing Dkt. 1 at ¶¶ 3, 25). Petitioner believes that this was in error. He last entered the United States in July 2021 by crossing the southern border. Dkt. 1 at ¶¶ 3, 25.

triggers the protections of procedural due process, including the right to an individualized bond hearing. *See, e.g.*, *Vieira v. De Anda-Ybarra*, 806 F.Supp.3d 690, 700 (W.D. Tex. 2025) ("Precedent and logic tell us that those individuals who have established ties in the country are protected by constitutional due process."). Therefore, Petitioner has a valid, as-applied procedural due process claim.

b. The Supreme Court's Instructions in *Demore* and *Thuraissigiam* Are Inapplicable Here.

Respondents further assail the instant Petition, citing two Supreme Court cases, namely, *Demore v. Kim* and *Dep't of Homeland Sec. v. Thuraissigiam*. Dkt. 9 at 7–8. But neither case assists Respondents.

i. *Demore v. Kim*

Demore v. Kim concerned a facial constitutional challenge involving criminal noncitizens who were mandatorily detained during the pendency of their removal proceedings pursuant to 8 U.S.C. § 1226(c). 538 U.S. 510, 517–18 (2003). In *Demore*, the Supreme Court found that, for that limited class of removable noncitizens, their mandatory detention without a bond hearing did not contravene the U.S. Constitution. *Id.* at 531. Specifically, the *Demore* Court concluded that, in light of Congress' "justifiabl[e] concern[s]" over high rates of evasion and recidivism among non-detained criminal noncitizens in removal proceedings, mandatory detention "for the brief period necessary for their removal proceedings" was constitutionally justified. *Id.* at 513.

The Supreme Court's holding in *Demore* is inapplicable to the present case. As a preliminary matter, unlike the petitioner in *Demore*, Petitioner in this instant action is not waging a facial challenge to the constitutionality of 8 U.S.C. § 1225(b)(2)(A): he does not dispute that, in some circumstances, detention without a bond hearing under that provision may be constitutional. Instead, he brings an as-applied challenge: "even acknowledging that detention

during removal proceedings is constitutional as a general matter does not answer the question whether it is unconstitutional to apply 8 U.S.C. § 1225(b)(2)'s mandatory detention provision to Petitioner given his specific factual circumstances." *Bonilla Chicas*, 2026 WL 539475, at *8.

Further, there is no indication that, in enacting 8 U.S.C. § 1225(b)(2)(A), Congress shared the same concerns underlying § 1226(c). As one court aptly noted:

> Here, no similar logic applies. Petitioner has not been convicted of any crime. And Respondents offer no "justifiabl[e] concern[]" that Congress might have sought to address by providing for his unbailable detention. Detention under section 1226(c), as approved in *Demore*, is based on "personal activity," demonstrated by a criminal conviction, that rationally supports at least a prima facie finding of detention's reasonableness in light of apparent removability. No such presumptions hold in a case, like Petitioner's, where deportability is neither conceded nor obvious and where the only rationale for mandatory detention appears to be Respondents' asserted authority to withhold generally available due-process protections based on Petitioner's immigration status.

Rincon v. Hyde, --- F.Supp.3d ---, 2025 WL 3122784, at *8 (D. Mass. Nov. 7, 2025). To be sure, Petitioner has no known criminal history in the U.S. or elsewhere. Dkt. 1 at ¶ 30. This stands in contrast to the noncitizen in *Demore* who was convicted of at least one aggravated felony "following the full procedural protections our criminal justice system offers." *Id.* at 513. The policy concern that justified mandatory detention without a bond hearing under 8 U.S.C. § 1226(c) simply cannot, and does not, exist here. Thus, *Demore* does not preclude this Petition.

ii. *Dep't of Homeland Sec. v. Thuraissigiam*

Respondents also assert that Petitioner cannot have a right to an individualized bond hearing because "Congress has [not] provided [such a procedural right] by statute." Dkt. 9 at 8 (citing *Zuniga v. Lyons*, 2025 WL 3755126, at *8 (N.D. Tex. Dec. 29, 2025), which in turn quotes *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020)). Respondents appear to construe the Supreme Court's decision in *Thuraissigiam* as establishing a sweeping principle

that all noncitizens who illegally entered the United States cannot demand more process in all immigration-related matters than that which Congress has expressly provided. *Id.* Not so.

In *Thuraissigiam*, the Supreme Court rejected an as-applied due process claim brought by a noncitizen subject to expedited removal under 8 U.S.C. § 1225(b)(1), who challenged the constitutionality of § 1252(e)(2) which foreclosed judicial review of his negative credible fear determination. 591 U.S. at 138–40. In doing so, the Court found that noncitizens who are detained at or near the border, thereby failing to "effect[] an entry," possess only "those rights regarding *admission* that Congress has provided by statute." *Id.* at 140 (emphasis added). This holding does not aid Respondents for two reasons.

First, *Thuraissigiam* addressed the noncitizen's procedural due process rights in the context of *admission* and *removal* – specifically, whether more procedure was due before the expedited *removal* order became final. *Bonilla Chicas*, 2026 WL 539475, at *9. In contrast, here, Petitioner challenges only his present *detention* and whether additional process is required before he may be further detained. *Id.* Simply put, "[t]he [*Thuraissigiam*] Court did not address whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention, as [Petitioner] does here." *Lopez-Arevelo v. Ripa*, 801 F.Supp.3d 668, 682 (W.D. Tex. 2025). Thus, *Thuraissigiam* is not on point.

Second, while the noncitizen in *Thuraissigiam* had never "effected an entry" and was therefore "on the threshold" for immigration purposes, 591 U.S. at 140, Petitioner here entered the United States almost five years ago and has since established a life here, Dkt. 1 at ¶¶ 3, 23–24. As repeatedly recognized by the Supreme Court, this distinction is crucial because "once a [noncitizen] 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 here is

lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. *See also Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) ("[O]our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality."). Respondents' assertion fails to appreciate this important difference and thus attempts to extend *Thuraissigiam* to a context in which it is clearly inapplicable. Accordingly, *Thuraissigiam* does not preclude the instant Petition.

c. The Due Process Clause of the Fifth Amendment Guarantees Petitioner an Individualized Pre-Deprivation Bond Hearing.

Procedural due process requires that Petitioner be afforded an individualized pre-deprivation bond hearing. The balancing test articulated in *Mathews v. Eldridge* is instructive here. In *Mathews*, the Supreme Court held that appropriate procedural protections must balance the following three factors: first, "the private interest that will be affected by the official action"; second, "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and third, "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. 319, 335 (1976). Each of the three factors weighs in favor of Petitioner.

First, Petitioner's private interest in freedom from detention is "the most significant liberty interest there is." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Hamdi*, 542 U.S. 507). Indeed, "freedom from imprisonment . . . lies at the *heart* of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690 (emphasis added). Thus, the first *Mathews* factor weighs in Petitioner's favor.

Second, absent a pre-deprivation bond hearing, the risk of an erroneous deprivation of Petitioner's protected interest in physical freedom is "very high." *Bonilla Chicas*, 2026 WL 539475, at *11. "The risk lies in the automatic continued deprivation of liberty for a noncitizen who has lived in the United States for over four years and with strong ties to the community, especially where there are no facts in the record to reflect [his] dangerousness or flight risk." *Chinchilla v. De Anda-Ybarra*, 2025 WL 3645178, at *5 (W.D. Tex. Dec. 16, 2025). The probable value of an individualized bond hearing is also substantial in that it would greatly reduce the risk of an erroneous deprivation of Petitioner's physical liberty. *Lopez-Arevelo*, 801 F.Supp.3d at 686. Accordingly, the second *Mathews* factor also supports Petitioner.

Finally, while Respondents have an interest in ensuring that removable noncitizens neither abscond nor pose a danger to the community, they may nevertheless "vindicate this interest at a bond hearing." *Chinchilla*, 2025 WL 3645178, at *5. In contrast, the fiscal and administrative burdens placed on Respondents associated with providing a bond hearing are insubstantial, as the government routinely provided such hearings until the agency's abrupt change in its interpretation of the Immigration and Nationality Act in 2025. *Id.* Hence, the third *Mathews* factor also weighs in favor of Petitioner.

Accordingly, procedural due process requires that Petitioner be afforded an individualized pre-deprivation bond hearing before an immigration judge.

d. Petitioner's Current Detention Violates His Substantive Due Process Rights.

In addition to violating his procedural due process rights, Petitioner's continued detention without a bond hearing violates his substantive due process rights. It is a deeply rooted constitutional principle that immigration detention must "bear[] a reasonable relation to the purpose for which the individual was committed" in order to comply with due process. *Demore*,

538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 690); *cf. Reno*, 507 U.S. at 316 ("The institutionalization of an adult by the government triggers heightened, substantive due process scrutiny.") (O'Connor, J., concurring). As the Supreme Court repeatedly held, immigration detention is constitutional insofar as it serves a nonpunitive purpose of ensuring appearance at future immigration proceedings or preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

As such, even assuming the Fifth Amendment does not mandate the least burdensome means to be used to accomplish the government's goal in detaining removable noncitizens, *Demore*, 538 U.S. at 528, and even assuming "[d]etention during removal proceedings" may be considered "a constitutionally permissible part of the that process," *id.* at 531, Respondents' blanket assertion that "*any* substantive due process claim challenging [a noncitizen's] detention pending removal fails," Dkt. 9 at 10 (emphasis added), is baseless. This conclusion is even more compelling in a case, such as this one, in which the petitioner has already acquired a protected liberty interest in freedom from imprisonment by virtue of his strong ties to this country. *Rodriguez v. Frink*, --- F.Supp.3d ---, 2026 WL 709487, at *10 (S.D. Tex. Mar. 13, 2026). In such a case, "the Constitution [does not] permit the Government to detain [the] noncitizen . . . for an indefinite and potentially years-long period in prison-like conditions without any individualized assessment of her actual risk of flight or dangerousness, merely because [he] is an 'applicant for admission' under the INA." *Id.* "If the Due Process Clause's protection of liberty is to have any meaning, it cannot allow for such an outcome." *Id.*

By failing to afford Petitioner a bond hearing, Respondents are neglecting to take any steps to effectuate their substantive obligation to ensure that his detention bears a "reasonable

relation" to either of the permissible purposes and is not punitive. Accordingly, his detention runs afoul of the Constitution's guarantee of substantive due process.

III. Petitioner's Immediate Release from Respondents' Custody is Warranted.

Petitioner's immediate release from Respondents' custody is warranted in this case. "[T]he typical remedy for [unlawful] detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Indeed, in cases such as here, "a post-deprivation bond hearing before . . . an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out." *Rodriguez-Acurio v. Almodovar*, --- F.Supp.3d ---, 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025). "Such a hearing is no substitute for the requirement that [immigration officials] engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heard of the Due Process Clause." *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 497 (S.D.N.Y. 2025) (internal brackets and citations omitted). And this Court has the authority necessary to order Petitioner's outright release. *Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 15 (1971) ("Once a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."); *see, e.g.*, *Bonilla Chicas*, 2026 WL 539475, at *11–12 (ordering immediate release); *Cobarrubias Lopez v. Rio Grande Processing Center*, 2026 WL 571210, at *2 (S.D. Tex. Mar. 2, 2026) (same). Hence, Petitioner's immediate release must be ordered.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court deny Respondents' Motion for Summary Judgment, grant his Petition for Writ of Habeas Corpus, and order his immediate release from Respondents' custody, or alternatively, a bond hearing before

an immigration judge at which the government bears the burden of proving, by clear and convincing evidence, that he presents a risk of flight or a danger to the community.

Date: March 24, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on March 24, 2026, a true copy of the above document was filed via the Court's CM/ECF system and that a copy will be sent automatically to all counsel of record.

Dated this 24th day of March, 2026.

/s/ Yong Ho Song
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Counsel for Petitioner