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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

ELIBERTO MONTALVO AGUILLON, Petitioner, v. **MARIO GARCIA**, Warden, Webb County Detention Center; **ROBERT CERNA,** Field Office Director of the Harlingen Field Office, U.S. Immigration and Customs Enforcement **TODD LYONS,** Acting Director of Immigration and Customs Enforcement; **MARKWAYNE MULLINS** Secretary of the U.S. Department of Homeland Security; and **PAMELA JO BONDI** United States Attorney General, in their official capacities. Respondents.	Civ. No. 5:26-cv-00472 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** Agency No. [redacted]

PETITIONER'S RESPONSE TO RESPONDENT'S RESPONSE AND OPPOSITION TO MOTION FOR SUMMARY JUDGEMENT

COMES NOW, Petitioner, through undersigned counsel, and respectfully opposes Respondents' Motion for Summary Judgment and submits this reply in further support of his Petition for Writ of Habeas Corpus:

I. Introduction

In their response and Motion for Summary Judgement, respondents conflate two distinct questions: the statutory source of detention authority and the constitutional limits on continued civil detention. Petitioner does not ask this Court to disregard *Buenrostro-Mendez v. Bondi*. *See Buenrostro-Mendez v. Bondi*, No. 25-cv-20496, 2026 WL 323330. He accepts for purposes of this action that the Fifth Circuit has construed 8 U.S.C. § 1225(b)(2)(A) to apply to noncitizens who entered without inspection and remain unadmitted. *See id.* Rather, Petitioner challenges the legality of his continued detention in the absence of any mechanism through which that detention may be reviewed. The question before this Court is therefore not whether detention is authorized in the abstract, but whether the Constitution permits continued civil detention where no process exists to assess its necessity.

II. The Court has habeas jurisdiction

This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the fact and legality of his detention, not any removal order or the merits of removal proceedings. The Fifth Circuit has recognized that district courts retain jurisdiction in due process challenges to continued immigration detention where the claim is independent of the removal process. The Fifth Circuit has recognized that district courts retain jurisdiction in due process challenges to continued immigration detention where the claim is independent of the removal process. *See Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006); *see also Zadvydas v. Davis*, 533 U.S. 678, 688 (2001); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018). Petitioner's claim falls

squarely within that category. He does not seek review of removal proceedings, nor does he challenge the Government's authority to initiate those proceedings. Instead, he challenges the absence of any mechanism to test whether his ongoing detention is justified.

III. Applicable Law and Argument

A. *Buenrostro* does not resolve the constitutional question

Buenrostro held that a noncitizen present in the United States without admission is an applicant for admission subject to detention under § 1225(b)(2)(A). But *Buenrostro* did not hold that detention under § 1225(b)(2)(A) is exempt from due process, nor did it authorize continued detention without any forum in which the legality or necessity of detention may be reviewed. Notably, *Buenrostro* does not address whether due process permits detention to continue without access to any custody-review mechanism. Accordingly, while *Buenrostro* may govern the statutory basis for detention, it does not control the constitutional question presented here.

The undisputed facts establish that Petitioner is detained in a system in which no meaningful review is available. Immigration judges have been instructed that they lack jurisdiction to conduct bond hearings for individuals in Petitioner's position, and Respondents identify no alternative administrative process through which Petitioner may obtain a custody determination. As a result, Petitioner is confined without access to any neutral decision-maker capable of assessing whether his continued detention is necessary. This is not a case involving denial of bond after a hearing; it is a case in which no hearing is available at all.

B. Continued civil detention without any custody-review mechanism violates due process

The Supreme Court has consistently recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. at 690–91

(explaining that civil detention must bear a reasonable relation to its purpose and is subject to constitutional limitations). Civil detention is constitutionally permissible only where it is reasonably related to a legitimate regulatory purpose and accompanied by sufficient safeguards to ensure that confinement is justified in the individual case. *See Kansas v. Hendricks*, 521 U.S. 346, 356–57 (1997) (upholding civil detention only where it serves a nonpunitive regulatory objective).

Where no mechanism exists to evaluate flight risk, dangerousness, or other individualized factors, detention ceases to function as a regulatory measure and instead becomes arbitrary. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (holding that the nature and duration of civil detention must bear a reasonable relation to its purpose). Respondents' position effectively eliminates any opportunity for individualized review. Under that framework, detention continues regardless of the detainee's circumstances, without any means to demonstrate that confinement is unnecessary. Such a system lacks any meaningful limiting principle. If no review mechanism exists, detention may persist indefinitely, not because it is necessary in a particular case, but because no process exists to determine otherwise. The Constitution does not permit civil detention to operate in that manner.

That constitutional principle controls here. Petitioner is subject to civil detention, yet, Respondents provide no neutral adjudicator and no procedure whatsoever to determine whether continued confinement is necessary. Under Respondents' own position, bond is categorically unavailable and the immigration court lacks jurisdiction to conduct custody review. A civil-detention system with no mechanism to test necessity is not merely mandatory; it is unreviewable. Due process does not permit the Executive to hold a person in that posture

indefinitely. *See Zadvydas*, 533 U.S. at 690–91; *Jackson v. Indiana*, 406 U.S. at 738 (requiring that the nature and duration of civil detention bear a reasonable relation to its purpose).

C. Respondent's erroneous reliance on Demore

Respondents rely on *Demore v. Kim* to argue that mandatory detention is constitutionally permissible. *See Demore v. Kim,* 538 U.S. 510 (2003). That reliance is misplaced. Demore addressed detention under 8 U.S.C. § 1226(c) and emphasized the limited duration and defined endpoint of detention in that context, noting that such detention typically lasts only a brief period necessary to complete removal proceedings. *See Id* at 529–30. The Court's analysis rested in part on those features—particularly that detention was finite in duration and embedded within a functioning adjudicative process. *Id.*

Respondents are correct that Petitioner's detention, like the detention in *Demore*, is tied to the pendency of removal proceedings and therefore has a theoretical endpoint. That fact, however, is not dispositive. The constitutional inquiry is not limited to whether detention will eventually end, but whether detention is justified during the period in which it is imposed. *See Zadvydas v. Davis*, 533 U.S. at 690–91. In *Demore*, detention occurred within a system that provided adjudication of the detainee's status and a defined procedural framework governing removal. Here, by contrast, Petitioner is detained in a regime in which no mechanism exists to obtain custody review, no adjudicator has authority to evaluate whether continued confinement is necessary, and no process exists to test the legality of detention while it is ongoing. That distinction is critical. *Demore* did not consider, and does not authorize, civil detention that is insulated from all individualized review.

D. Exhaustion is excused because any request for bond is futile

Respondents also argue that Petitioner failed to exhaust administrative remedies. That argument fails because no meaningful remedy is available. Respondents' own position is that immigration judges lack jurisdiction to provide bond hearings under § 1225(b). Under those circumstances, requiring Petitioner to pursue administrative remedies would be futile. Exhaustion is not jurisdictional in this context and is properly excused where no relief can be obtained.

E. The Government is not entitled to summary judgment

Summary judgment is appropriate only if "there is no genuine dispute as to any material fact" and the movant is "entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986). Respondents have not met that burden. Their motion establishes only that they believe *Buenrostro-Mendez v. Bondi* governs the statutory source of detention. But even assuming *Buenrostro* controls that question, it does not resolve whether detention without any mechanism for custody review satisfies due process. *See Zadvydas v. Davis*, 533 U.S. at 690–91.

Respondents' motion instead confirms the central constitutional defect: under the current regime, Petitioner has no hearing, no access to a neutral decisionmaker, and no ability to obtain a custody determination. A detention system that provides no mechanism to test whether confinement remains justified raises serious constitutional concerns. *See Foucha v. Louisiana*, 504 U.S. 71, 79–80 (1992); *Jackson v. Indiana*, 406 U.S. at 738. Because Respondents have not shown that detention without any custody-review mechanism is constitutional as a matter of law, summary judgment should be denied.

IV. Requested relief

Petitioner respectfully requests that the Court deny Respondents' motion for summary judgment, sustain the petition in part, and order Respondents to provide Petitioner a prompt individualized custody hearing before a neutral immigration judge within seven days, with release to follow if such hearing is not provided.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 2, 2026, a true and correct copy of this Response and Opposition to the Respondent's Motion for Summary Judgement was served via CM/ECF upon counsel of record.

Iris Guerra Bravo