IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GUILLERMO LANDAVERDE RESENDIZ Petitioner, v. **MIGUEL VERGARA**, Field Office Director, San Antonio Field Office, Immigration and Customs Enforcement, in his official capacity, **WARDEN**, South Texas ICE Processing Center, in his/her official capacity, **DAVID J. VENTURELLA**, Senior Director of U.S. Immigration and Customs Enforcement, in his official capacity, **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security, in his official capacity, **TODD BLANCHE**, Acting U.S. Attorney General, in his official capacity Respondents.	Case No.: **5:26-cv-4130**

RESPONSE TO FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

("Petitioner") **Guillermo Landaverde Resendiz** ("Petitioner") (A# [redacted] now responds to Respondents' arguments opposing the Habeas Corpus Petition. Petitioner respectfully asks that the Court to grant Petitioner's Habeas Petition and deny Respondent's arguments. The Respondents' incorrectly assert that there is no legal dispute because Petitioner falls under mandatory detention under 8 USC Sec 1225(b)(2), citing the 5th circuit case of *Buenrostro-Mendez v. Bondi. (Buenrostro-Mendez v. Bondi*, 166 F. 4th 494, 498 (5th Cir. Feb 6, 2026)). However, Petitioner's Writ of Habeas Corpus seeks to resolve exactly that current, *existing* legal dispute: whether he is subject to mandatory detention.

The Honorable Judge should resolve that legal dispute and find that 1) the Petitioner should be released immediately or otherwise be granted bond under recent case law, which entitles him to a bond hearing.

Petitioner herein shows clearly the unconstitutionality of his detention as will follow:

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Petitioner is a Mexican citizen. The Petitioner last entered the United States on or about 2009. Petitioner entered without inspection and was not apprehended.

The Petitioner's extensive family ties include his three U.S. Citizen children, and Legal Permanent Resident mother who he cares for. Additionally, his extended family consists of aunts, uncles and cousins.

The Petitioner has a pending VAWA application based on his marriage to a U.S. citizen spouse, from whom he suffered abuse. Petitioner previously had an I-130 petition pending. ***(See Exhibits B).***

On information and belief, Petitioner was unlawfully detained by Federal Immigration Agents on May 20, 2026. The Petitioner was driving when he was pulled over by a State Trooper. The trooper told the Petitioner he was being stopped because the trailer and vehicle taillights were non-functioning. The trooper requested documentation, and the petitioner provided his driver's license. The trooper then questioned the Petitioner regarding his immigration status, and Immigration and Customs Enforcement (ICE) subsequently arrived and detained him.

Petitioner was taken to the nearest ICE/ERO Field Office and transferred to South Texas ICE Processing Center located in Pearsall, TX where he is currently being detained.

VIOLATION OF DUE PROCESS RIGHTS – FIFTH AMMENDMENT

In order to vindicate Petitioner's constitutional, statutory and regulatory rights, this Honorable Court should grant this instant petition for a writ of habeas corpus to ensure his continued freedom. Petitioner kindly requests that this court find his detention to be unlawful and order ICE to release him.

PETITIONER'S UNLAWFUL DETENTION FALLS UNDER 1225(b)(2)

The Respondents argued that Section 1225(b)(2) applied to Petitioner rather than 1226(a). They assert that the case of *Buenrostro-Mendez v. Bondi*, 166 F. 4th 494, 498 (5th Cir. Feb 6, 2026) applies, rather than *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. Et al.* No. 5:25-cv—01873-SSS-BFM (D.D Cal. 2025)(February 18, 2026).

Petitioner asks the Court to refer to his Habeas Petition initially filed with the Court, as it includes the Counts in his Habeas Petition that discuss such arguments and is fact the basis of Petitioner's request for Habeas Corpus relief to address his unlawful detention. Petitioner re-asserts all arguments made in the original Habeas Corpus Writ herein.

Petitioner further argues that the Court should follow *Maldonado Bautista v. Santacruz Jr.* regardless of whether it is sitting in the 5th circuit. *Maldonado Bautista v. Santacruz Jr.* is a thorough and sound judgement, and it would apply nationwide. In fact, unlike Respondents' assert, the Judge even gave assurances in the opinion that the Court was operating within the confines of its subject matter jurisdiction in issuing further relief. *Maldonado Bautista v. Santacruz Jr. (CIVIL MINUTES) at 11 (5:25-cv-01873-SSS-BFM (February 18, 2026).*

On the contrary, *Buenrostro-Mendez v. Bondi* was not binding on the 5th circuit. There are likely many Judges sitting in the 5th circuit who would agree with Petitioner's arguments herein, who believe the nationwide class action *Maldonado Bautista v. Santacruz Jr. is* a correct based on long standing agency practice and because it follows the plain text of the Immigration and Nationality Act (INA). In the *Buenrostro-Mendez v. Bondi* decision there was a strong dissent, and it was a split circuit and panel.

Buenrostro -Mendez is a panel ruling that conflicts with statutory text, longstanding interpretation, and causes due process issues to arise. It also does not and cannot vacate a binding nationwide judgement.

Congress has decided already that there is a distinction between INA Sec. 1225(b)(2)(A) and INA Sec. 1226(a). Sec. 1225(b)(2) has previously been interpreted to not apply to interior citizen, rather than one who is seeking admission; therefore, the case of *Buenrostro-Mendez*, which gets rid of the distinction between those aliens in the interior and those aliens arriving, is wholly against the intent of Congress.

Congressional intent should be considered and followed to guide the Court. *Maldonado Bautista v. Santacruz Jr.* on the other hand, restores and preserves the longstanding interpretation of the INA. Sec. 1225 has always applied to "border processing" only. It also protects the alien's due process rights. "Non-citizens are entitled to due process under the Fifth Amendment. *Trump v. J.G.G.* 604 U.S. 670, 673 (2025).

The Respondents' state that there would be a "serious risk of inconsistent judgements and unfair results if the *Bautista* judgement is reversed or vacated on appeal," despite its soundness in law and reason.

On the other hand, as *Buenrostro* stands, it already gives "serious risk of inconsistent judgements and unfair results" at the outset, because all distinctions mentioned between those in the interior of the border and arriving aliens are treated the same, which Congress never intended. This gives all individuals wrongly classified to be subject to unfair results: unlawful mandatory detention without review. As the Respondents use the phrase "the Constitution should not be manipulated"... to allow the government to mandatorily detain any alien without distinction or not lawfully admitted. Moreover, the case cited by the Government *Kaplan v. Tod*, 267 U.S. 228 (1925) has never been the standard: that only lawfully admitted aliens have due process rights. That would be an absurd finding, especially given recent developments in the law today since then and due to Congress' clear intent to treat those designations differently.

Those aliens who have lived in the United States for a period of time in the interior of the border should be allowed opportunity for an individualized bond under Sec. 1226(a). These are aliens who have likely established meaningful ties in the community because they've spent time in the United States. To not distinguish between aliens who have lived in the interior of the U.S. and rather treat them as "arriving

aliens" causes many Due Process concerns because such treatment of aliens in entirely different postures in the United States, yet they are treated the same way. If the Court were to follow the *Buenrostro-Mendez* due process issues surely arise.

Again, *Maldonado Bautista v. Santacruz Jr.* is a nationwide certified class action, allowing class-members to obtain the declaratory relief ordered by the Judge in that case. The nationwide certified class action is binding, even on the 5th circuit. *Buenrostro-Mendez* cannot override class member eligibility, and even those in the 5th circuit are allowed to obtain such declaratory relief in *Maldonado Bautista v. Santacruz Jr.*

"Multiple district courts within the Fifth Circuit have held that *Buenrostro-Mendez* has no bearing on whether habeas petitioners are being detained in violation of their constitutional right to procedural due process." *Marceau v. Noem No. 3:26-cv-237-KC, 2026 WL 368953, at *2 (W.D. Tex Feb. 9, 2026).*

Moreover, *Buenrostro-Mendez* does not address the due process implications to those interior residents, and the Court is able to limit *Buenrostro-Mendez* on this basis:

"This Court previously interpreted 8 U.S.C. § 1225(b)(2) as not applying to noncitizens like Petitioner who have been residing in the country for years, as opposed to a noncitizen present in the United States who has recently arrived and is actively seeking admission. See, e.g., *Guzman v. Bondi,* F. Supp. 3d 25-CV-2055-RP, 2025 U.S. Dist. LEXIS 268695, 2025 WL 3724465 (W.D. Tex. Dec. 23, 2025). This interpretation was recently rejected by a Fifth Circuit panel. *Buenrostro-Mendez v. Bondi,* F.4th , No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). *Buenrostro-Mendez* addressed only statutory interpretation [*4] of the INA. By contrast, it did not examine whether Petitioner's ongoing detention without access to a bond hearing violates the Constitution. Id.2 As such, the Court turns to Petitioner's independent claim for release under the Due Process Clause." *Ochoa v. Vergara, No. 1:26-CV-266-RP, 2026 U.S. Dist. LEXIS 38172, 2026 WL 482211, at *2-3 (W.D. Tex. Feb. 20, 2026).*

As to the Due Process claim and the Respondents' reliance on the case of *Thuraissigiam*, the Courts have distinguished that case as to many Petitioner's filing for such Habeas relief. *Dep't of Homeland Sec. v. Thuraissigiam*, 91 U.S. 103, 140 (2020). In the case of *Ochoa v. Vergara*, the Court held that Respondents' arguments did not foreclose Petitioner's due process claim. They cited several cases, and then distinguished the case to the Petitioner therein. "First, unlike the petitioner in *Thuraissigiam*, Petitioner does not challenge the admission process in any way or assert a right to remain the United States. He "merely seeks a chance to apply for release... [and] [n]othing in *Thuraissigiam* suggests [he]lacts such a due process right." (Citing *Hernandez-Fernandez*, 2025 WL 2976923, at *8.) A second key point of distinction is that Thuraissigiam was stopped by border patrol 'within twenty-five yards of the border,' immediately detained, and never released. By contrast, Petitioner has resided in the United States for over a year prior to his detention." *Id. at 3.* Similar to Petitioner in *Ochoa v. Vergara*, the Petitioner in this matter also does not challenge the admission process or his right to stay, but merely argues for opportunity for release and exercise his Due Process rights. Also, Petitioner was living in the interior border for "over a year prior to his detention" just like Petitioner in *Ochoa v. Vergara*. *See Id. at *3-4.*

The Petitioner's civil detention in this matter violates his Due Process rights. Petitioner here, like that in the case of *Ochoa v. Vergara*, can also meet the Matthew's 3 part test that is required.

*"To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in Mathews v. Eldridge, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)." Martinez v. Noem, No. 5:25-CV-1007-JKP, 2025 U.S. Dist. LEXIS 174415, 2025 WL 2598379, at *4 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the Government's interest, including the*

function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." Mathews, 424 U.S. at 335. *Id. at *4-5*

Petitioner here meets the Matthew test as follows and as is the appropriate framework in this matter: 1) Here, Petitioner has been in the United States, living in the interior for a period of time, and he has a "cognizable interest in his freedom from detention" (Citing *Hernandez-Fernandez v. Lyons,* No. 5:25-cv-00773-JKP, 2025 WL 2976923 at *9 (W.D. Tex. Oct. 21, 2025). He has a private interest that will be affected by the official action. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001).

2) there is a risk of erroneous deprivation because Petitioner lacks the opportunity, except with the help of this Court, to "contest the reasonableness of his detention, meaning the risk of erroneous deprivation lies in this 'automatic continued deprivation of liberty for a noncitizen." (citing Id. At *7).

3) The Government's interest can be preserved with a bond hearing: "In any event, if such concerns exist, they would be squarely addressed" at a bond hearing. (citing *Lopez-Arevelo*, 801 F. Supp 3d at 687.) The Court here, like the Court in *Ochoa v. Vergara* should find that Petitioner's detention without opportunity to challenge it violates Due Process. *Ochoa v. Vergara, No. 1:26-CV-266-RP, 2026 U.S. Dist. LEXIS 38172, 2026 WL 482211, at *4-5 (W.D. Tex. Feb. 20, 2026).*

The *Ochoa v. Vergara* decision also discusses a plethora of cases by the Federal district court in Texas in which instances of detention violated a Petitioner's right to procedural due process. (Citing Vieira, 2025 WL 2937880, at *7) ("In Sum, Section 1225(B)(2) as applied to Petitioner violates his Fifth Amendment Due Process Rights.") *Ochoa v. Vergara, No. 1:26-CV-266-RP, 2026 U.S. Dist. LEXIS 38172, 2026 WL 482211, at *5-6 (W.D. Tex. Feb. 20, 2026).* Moreover, the decision then goes on to discuss that many

Federal District Courts in Texas have also made this finding subsequent to the Fifth Circuit issuing its opinion in *Buenrostro-Mendez. Id. at 6.*

The Court in *Ochoa v. Vergara* ultimately resolved Petitioner's Habeas claim by granting his release: "the typical remedy for such detention, is of course, release." (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). *Ochoa v. Vergara at 6.*

"In recent months, courts across the country have ordered the releasee of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-cv-741-BLW, 2026 WL 18809 at *5. (D. Idaho Jan 2, 2026)

The Respondents' arguments that the case is like that of *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003), is not sound. Arguing that a sex offender must register as a sex offender (based on his prior conviction alone) without a hearing and comparing it to Petitioner here is unfounded. Petitioner is not a dangerous criminal nor a sex offender, rather he is someone unlawfully arrested, who should NOT be mandatorily detained without an assessment of danger or flight risk. In the *Connecticut Department of Public Safety v. Doe,* the Petitioner there was already designated a sex offender, thus requiring him to register, and any other hearing additional hearing could easily be seen as futile. In that case Petitioner had opportunity at a hearing to assess dangerousness. In Petitioner's case here, his designation as to his applicability to Sec 1225(b)(2)(A) is in dispute, going to the Core issue of this instant Habeas petition, that mandatory detention without opportunity to challenge that detention is unlawful. Unlike that case, Petitioner here has had no similar opportunity to challenge a material finding of consequence (which again goes to the core of his Habeas Writ).

Moreover, Federal Respondents' reliance on Sosnava Rodriguez is particularly misplaced because the Fifth Circuit has granted rehearing en banc and vacated the panel opinion. As a result, the July 2, 2026, panel decision no longer has precedential effect pending the en banc court's resolution of the case.

The Respondents cite the case *Wekesa v. U.S. Attorney, No 22-10260, 2022 WL 17175818 (5th Cir. Nov. 22, 2022),* however this case is not applicable to Petitioner as he does not fall under Sec. 1226(c) as a criminal whose mandatory detention should be considered at the outset without opportunity for a bond hearing.

Finally, Respondents argue that petitioner did not allege that his removal was "unattainable," like *Zadvydas*. However, Respondents bring up the point that indeed it is uncertain in this matter how long in fact Petitioner will be detained, and he may be detained without opportunity for release should this instant Habeas not be granted. Petitioner is not an individual who should be detained at all, and release should be ordered.

"Government detention violates the Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections...or, in certain special and 'narrow' nonpunitive circumstances', where a special justification, such as harm threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restrain." *Vierira, 2025 WL 2937880, at *4 (*quoting *Kansas v. Hendricks, 521 U.S. 346, 356 (1997).*

Civil detention becomes punitive if it "become[s] a mechanism for retribution or general deterrence." Kansas v. Crane, 534 U.S. 407, 412 (2002) (quoting Kansas v. Hendricks, 521 U.S. 346, 372 (1997)

"A due process violation occurs when detention becomes punitive rather than regulatory, meaning there is no regulatory purpose that can rationally be assigned to the detention, or the detention appears excessive in relation to its regulatory purpose." *United States v. Torres, 995 F 3d. 695, 708 (9th Cir. 2021).*

Given Petitioner's unlawful detention the Court should release Petitioner as soon as practicable. "Individuals who have been conditionally released from detention have a protected interest in their continued liberty." *Young v. Harper, 520 U.S. 143, 147 (1997).*

Petitioner further argues that release is the most appropriate as due process weighs heavily in this matter. "The suggestion that government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person, at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Gonzalez v. Joyce*, No 25 Civ. 8250 (AT), 2025 WL 2961626 at *5 (S.D.N.Y. Oct 19, 2025).

The Petitioner also submits that the Court make a correct determination in this matter in ordering a stay of removal or transfer from the district. The Order should remain.

Respectfully submitted,

Guillermo Landaverde Resendiz
Petitioner
By and through Undersigned Counsel

Dated: July 15, 2026

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through CM/ECF system will be sent to the registered participants as identified in the Notice of Electronic Filing (NEF).

/s/ Margie S. Lazo Dated: July 15, 2026

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