UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FERNANDO SANTIAGO-CRUZ, *Petitioner*, vs. TODD W. BLANCHE, United States Attorney General; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security; TODD M. LYONS, Director of United States Immigration and Customs Enforcement; SYLVESTER ORTEGA, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement; CHARLOTTE COLLINS, Warden, T. Don Hutto Detention Facility *Respondents*.	§	Civ. Case No. 1:26-cv-1790 DHS FILE NUMBER: [redacted] **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

TABLE OF CONTENTS

I. INTRODUCTION 6

II. JURISDICTION AND VENUE 7

III. REQUIREMENTS OF 28 U.S.C. § 2243 7

IV. PARTIES 8

V. FACTUAL BACKGROUND 9

VI. LEGAL FRAMEWORK 11

A. Due Process 11

B. Statutory Scheme and *Buenrostro-Mendez* 11

C. The Limited Effect of *Maldonado Bautista* Outside the Central District of California 12

VII. ARGUMENT 13

A. This Court Has Habeas Jurisdiction to Remedy Unlawful Detention 13

B. *Buenrostro-Mendez* Does Not Foreclose Petitioner's As-Applied Procedural Due Process Claim 14

C. Petitioner States a Meritorious As-Applied Procedural Due Process Claim Requiring a Meaningful, Individualized Custody Hearing 15

i. Private Interest and Heightened Liberty Interest 16

ii. Risk of Erroneous Deprivation and Value of Additional Safeguards 16

iii. Government Interests and Administrative Burden 17

iv. Conclusion under *Mathews* 17

D. Petitioner Preserves the Statutory Detention-Authority Argument Under §§ 1225 and 1226 18

E. Release Under Conditions No More Restrictive Than Those Governing Petitioner's Liberty Before Arrest Is the Appropriate Remedy; Alternatively, the Court Should Order Prompt, Enforceable Custody Process 20

VIII. GROUNDS FOR RELIEF 22

IX. RELIEF REQUESTED 25

PRAYER FOR EXPEDITED CONSIDERATION 27

VERIFICATION PURSUANT TO 28 U.S.C. § 2242 28

TABLE OF AUTHORITIES

Cases

Addington v. Texas,
441 U.S. 418 (1979) 23
Avila v. Bondi,
170 F.4th 1128 (8th Cir. 2026)..... 12, 18
Buenrostro-Mendez v. Bondi,
166 F.4th 494 (5th Cir. 2026)..... passim
Cardoso v. Reno,
216 F.3d 512 (5th Cir. 2000)..... 15
Castañon-Nava v. U.S. Dep't of Homeland Sec.,
No. 25-3050, 2026 WL 1223250 (7th Cir. May 5, 2026)..... 12, 19
Clemente Ceballos v. Garite,
No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026) 15
Cunha v. Freden,
No. 25-3141-pr, 2026 WL 1146044 (2d Cir. Apr. 28, 2026)..... 12, 18
Demore v. Kim,
538 U.S. 510, 523 (2003)..... 15
Dieng v. Noem,
No. 5:26-cv-00223-XR (Feb. 25, 2026)..... 6, 15, 23
Dominguez v. Noem,
No. 25-cv-0074, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026)..... 21
Duran-Aguila v. Bondi,
No. EP-26-CV-241-KC (W.D. Tex. Feb. 9, 2026)..... 6, 23
Duron v. Johnson,
898 F.3d 644 (5th Cir. 2018)..... 15
Erazo Rojas,
2025 WL 3038262 (W.D. Tex. Oct. 30, 2025)..... 18
Escobar-Arauz v. Noem,
No. EP-25-cv-00619-DB, 2025 WL 3543648 (W.D. Tex. Dec. 10, 2025) 15, 16, 23
Espinosa-Guillen v. Bondi,
No. 1:26-cv-00295-RP (W.D. Tex. Feb. 20, 2026)..... 15
Hamdi v. Rumsfeld,
542 U.S. 507 (2004) 11, 22
Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami,
Nos. 25-14065 & 25-14075, slip op. (11th Cir. May 6, 2026)..... 12, 18
Hernandez-Fernandez v. Lyons,
2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) 15, 18, 20, 21
Jennings v. Rodriguez,
583 U.S. 281 (2018) ..... passim
Lopez-Arevelo,
2025 WL 2691828 (W.D. Tex. Aug. 26, 2025)..... 18
Lopez-Campos v. Raycraft,
Nos. 25-1965/1969/1978/1982, slip op. (6th Cir. May 11, 2026)..... 12, 18
Maldonado Bautista v. Santacruz,
No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025)..... 12, 13

Maldonado Bautista v. Santacruz,
No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026)..... 13
Martinez v. Hyde,
792 F. Supp. 3d 211 (D. Mass. 2025) 22
Mathews v. Eldridge,
424 U.S. 319 (1976) ..... passim
Maya-Contreras v. Warden of ERO El Paso East Montana Camp, et al.,
No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026)..... 15
Menjivar-Araujo,
No. 1:26-cv-00237-ADA-SH (W.D. Tex. Mar. 2, 2026)..... 15
Montes Aguillon v. Bondi,
No. EP-26-cv-71-KC, 2026 WL 531899 (W.D. Tex. Feb. 25, 2026)..... 20, 22
Munaf v. Geren,
553 U.S. 674 (2008)..... 20
Noyola v. Bondi,
No. 1:26-cv-405-RP, 2026 WL 607266 (W.D. Tex. Mar. 4, 2026)..... 20
Ortega-Aguirre v. Noem,
No. 4:25-cv-04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025)..... 20
Paredes-Paredes v. Bondi,
No. 1:26-cv-00359-RP (W.D. Tex. Feb. 27, 2026)..... 14
Pereira-Verdi v. Lyons,
No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025)..... 18
Preiser v. Rodriguez,
411 U.S. 475 (1973)..... 20
Reyes Perez v. Bondi,
No. SA-25-CA-1302-XR (W.D. Tex. Nov. 26, 2025) 18
Reno v. Am.-Arab Anti-Discrimination Comm.,
525 U.S. 471, 482 (1999)..... 15
Ruiz-Velazquez v. Bondi,
No. 1:26-cv-00286-RP (W.D. Tex. Feb. 20, 2026)..... 15
Santiago-Santiago v. Bondi,
2025 WL 2792588 (W.D. Tex. Oct. 2, 2025)..... 18
Sosnava Rodriguez v. Ortega,
No. 1:26-cv-00273-RP (W.D. Tex. Feb 25, 2026)..... 15, 23
Sosnava Rodriguez v. Ortega,
No. 26-50183 (5th Cir.)..... 6
Trump v. J. G. G.,
604 U.S. 670 (2025)..... 15
United States ex rel. Accardi v. Shaughnessy,
347 U.S. 260 (1954) 23, 24
Valencia Reyes v. Noem,
No. 5:25-cv-01921-XR (Feb. 25, 2026)..... 15, 23
Vargas v. Bondi,
No. 25-cv-1023, 2025 WL 3300446 (W.D. Tex. Nov. 26, 2025)..... 20, 22
Vieira v. De Anda-Ybarra,

No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025)..... 16
Zadvydas v. Davis,
533 U.S. 678 (2001) ..... passim
Zafra v. Noem,
No. EP-25-cv-00541-DB, 2025 WL 3239526 (W.D. Tex. Nov. 20, 2025) 15

Administrative Decisions

Matter of Yajure-Hurtado,
29 I. & N. Dec. 216 (BIA 2025) 10, 13

Statutes

U.S. Const. amend. IV ..... passim
28 U.S.C. § 1331 7
28 U.S.C. § 2241 ..... 6, 7
28 U.S.C. § 2243 ..... 7, 19, 26
8 U.S.C. § 1225(b)(1) 11
8 U.S.C. § 1225(b)(2)(A) ..... passim
8 U.S.C. § 1226(a) ..... passim
8 U.S.C. § 1229a ..... passim

I. INTRODUCTION

1. This is a petition for writ of habeas corpus under 28 U.S.C. § 2241 challenging the ongoing civil immigration detention of Fernando Santiago-Cruz ("Petitioner"), a native and citizen of Mexico who has been detained at the T. Don Hutto Detention Center since June 30, 2026. *See* Exh. 1, ICE Locator Results.
2. Petitioner, age 38, has lived in the United States for more than twenty-four years. He entered the United States as a teenager in 2002, built his life in Texas, worked consistently in construction, filed taxes using an ITIN, and raised a family here. He is married to Isamar Fuentes Lopez, age 32, and they have four U.S. citizen children, ages 2 to 16. *See* Exh. 5 (Texas birth certificates for their four minor children). Isamar Fuentes herself is a DACA recipient since 2012, Exh. 4, and her mother (Marisol Lopez) is a lawful permanent resident.
3. On Tuesday June 30, 2026, Petitioner was driving to work when s a Texas state trooper initiated a traffic stop in Travis County on suspicion unlawfully tinted window and defective taillight, and then within 30 minutes ICE arrived took custody of him. ICE is detaining him under 8 U.S.C. § 1225(b)(2)(A), it does not allege he represents any flight risk or danger but it refuses to provide him with a bond hearing before an immigration judge or any other meaningful custody review before a neutral adjudicator. Petitioner remains as a result in civil immigration detention despite his long residence, extensive family ties, steady work history, lack of criminal record, and available relief from removal.
4. While Respondents contend that Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A) and is therefore ineligible for bond, this Court should find that the particular statutory label Respondents invoke does not trump the Constitution which requires meaningful,

individualized custody procedures before the Government may continue depriving a long-term interior resident of physical liberty.

5. This Court is aware that *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), addressed a statutory detention-authority question only. It did not decide whether due process permits DHS to civilly detain a long-term interior resident while foreclosing any workable custody forum. *Id.* at 498. Respondents' position improperly collapses the constitutional inquiry into a statutory label. Even where a statute authorizes detention, the Constitution still requires due process.[1]

6. Courts in this District have continued—after *Buenrostro-Mendez*—to grant habeas relief on procedural due process grounds even while assuming § 1225(b)(2)(A) applies. *See, e.g.*, *Guevara Carabantes v. Bondi*, No. 1:26-CV-446-RP (W.D. Tex. Mar. 5, 2026); *Dieng v. Noem*, No. 5:26-cv-00223-XR (W.D. Tex. Feb. 25, 2026); *Duran-Aguila v. Bondi*, No. EP-26-cv-241-KC (W.D. Tex. Feb. 9, 2026); *Aldana-Barreira v. Bondi*, 1:26-cv-00436-DAE (W.D. Tex March 12, 2026); *see also Sintigo-Cercantes v. Bondi*, 4:26-cv-00856 (S.D. Tex. May 22, 2026); *Kenny-Velasquez v. Noem*, 4:26-cv-01530 (S.D. Tex. March 30, 2026).

7. This case presents a distinct constitutional question: whether the Government may continue detaining Petitioner in civil custody while denying him any meaningful custody review before a neutral decision-maker. The Due Process Clause requires more. Petitioner therefore requests that this Court grant the writ and order Respondents to provide prompt,

[1] The Fifth Circuit is currently considering this separate constitutional question in consolidated appeals from district-court orders granting habeas relief on procedural due process grounds. *See Sosnava Rodriguez v. Ortega*, No. 26-50183 (5th Cir.) (consolidated with *Villegas Angel v. Mullin*, No. 26-50219, and *Gomez Alvarado v. Vergara*, No. 26-50221). Those appeals address whether noncitizens whom DHS classifies as detained under § 1225(b)(2)(A) retain a Fifth Amendment due process right to meaningful custody review. Oral argument was held on April 29, 2026, and no decision has issued.

constitutionally adequate custody process with an enforceable deadline, or release him under reasonable conditions of supervision if Respondents cannot provide a workable hearing mechanism.

II. JURISDICTION AND VENUE

8. Petitioner is currently detained in civil immigration custody at the T. Don Hutto Detention Center in Williamson County, Taylor, Texas. He has been in DHS custody since June 30, 2026. *See* Exh. 1.

9. This action arises under the Constitution and laws of the United States, including the INA, 8 U.S.C. § 1101 et seq.

10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question). This Court may grant relief under 28 U.S.C. §§ 2241 and 2243 and may issue all writs necessary or appropriate in aid of its jurisdiction. 28 U.S.C. § 1651.

11. Venue is proper in the Western District of Texas because Petitioner is detained in this District, at least one Respondent is in this District, and a substantial part of the events giving rise to the claims occurred in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodian resides in this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the writ or issue an order to show cause unless it appears from the application that Petitioner is not entitled to relief. 28 U.S.C. § 2243.

13. If the Court issues an order to show cause, the return must be made within three days unless additional time is allowed for good cause, not to exceed twenty days. *Id.*

14. Each day of unlawful detention inflicts ongoing, irreparable harm on Petitioner and his family, and undermines his ability to prepare his defense in removal proceedings.

IV. PARTIES

15. Petitioner Fernando Santiago-Cruz is a 38-year-old citizen of Mexico detained at the T. Don Hutto Detention Center. *See* Exh. 1. Petitioner last entered the United States without inspection in 2002 and has remained here ever since.

16. Respondent Todd Blanche is named in his official capacity as Attorney General of the United States. He is responsible for the administration of the Executive Office for Immigration Review ("EOIR"), including policies that bear on immigration judges' jurisdiction over custody.

17. Respondent Markwayne Mullin is named in his official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). DHS is the department charged with administering and enforcing federal immigration laws. The Secretary is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.

18. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

19. Respondent Sylvester Ortega is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

20. Respondent Charlotte Collins is named in her official capacity as Warden of the T. Don Hutto Detention Center in Taylor, Texas. She has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

21. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

V. FACTUAL BACKGROUND

22. Petitioner, Fernando Santiago Cruz, age 38, is a native and citizen of Mexico.

23. Petitioner first entered the United States without inspection in approximately 2002, when he was about fifteen years old, and has lived here continuously ever since. He has lived in Texas for more than twenty-four years, always in the Austin area. His only record involves traffic citations for driving without a license.

24. Petitioner has worked in construction since he came to the United States. He has consistently worked to support his family and has filed taxes using an ITIN.

25. Petitioner has strong family ties in the United States. He is legally married to Isamar Fuentes. They married in Travis County, Texas in 2012, and are raising their four U.S. citizen children in the Austin area: [redacted], age 16; [redacted], age 14; [redacted], age 9; and [redacted], age 2. Petitioner has deep family ties in the United States over the prior twenty-four years, including his two siblings, and his mother-in-law who is a lawful permanent resident.

26. On June 30, 2026, Petitioner was driving to work when he was stopped by a Texas state trooper in Travis County for an alleged traffic violation. He was immediately transferred to DHS Custody.

27. Petitioner is currently detained by ICE. Petitioner has never had contact with ICE in his life or has been formerly subject to any supervision or conditions.

28. Petitioner has no criminal history. DHS has initiated removal proceedings on June 30, 2026 by serving him with a Notice to Appear (NTA) under 8 U.S.C. § 1229a.

29. The immigration court has scheduled him for an initial removal hearing for July 28, 2026. *See* Exh. 2 (EOIR Automated Case Information Results).

30. Petitioner has a viable basis to seek relief from removal, including cancellation of removal for certain nonpermanent residents under 8 U.S.C. § 1229b(b)(1), based on his more than twenty-four years of continuous physical presence, his U.S. citizen children, his family ties, his work history, and his long residence in the United States and good moral character.

31. DHS classifies Petitioner as detained under 8 U.S.C. § 1225(b)(2)(A), relying on DHS guidance dated July 8, 2025, and *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

32. Because of that classification, Petitioner has no access to a bond hearing before an immigration judge or any other workable mechanism to obtain an individualized custody determination before a neutral adjudicator.

33. As a result, Petitioner remains in civil immigration detention without any meaningful opportunity for individualized custody review.

VI. LEGAL FRAMEWORK

A. Due Process

34. The Fifth Amendment applies to "all persons" within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

35. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Id.* at 690.

36. "[T]he 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.

37. When the Government seeks to continue a serious restraint on liberty, due process requires, at minimum, a meaningful opportunity to be heard before a neutral decision-maker. *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

38. The controlling procedural due process framework is *Mathews v. Eldridge*, which balances: (1) the private interest affected; (2) the risk of erroneous deprivation under existing procedures and the value of additional safeguards; and (3) the Government's interests and the burdens of additional procedures. 424 U.S. 319, 335 (1976).

B. Statutory Scheme and *Buenrostro-Mendez*

39. The Immigration and Nationality Act ("INA") establishes different detention frameworks. Section 1226 governs detention during ordinary removal proceedings under 8 U.S.C. § 1229a and generally provides access to bond procedures in non-mandatory-detention cases. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1225 governs certain applicants for admission and other inspection-based detention contexts. *See* 8 U.S.C. § 1225(b)(1), (2). Section 1231 governs detention after a final order of removal. *See* 8 U.S.C. § 1231(a).

40. On February 6, 2026, the Fifth Circuit held that certain noncitizens who entered without inspection may be treated as "applicants for admission" under 8 U.S.C. § 1225(a)(1) and may be detained under 8 U.S.C. § 1225(b)(2)(A) during pending § 1229a proceedings if they cannot show they are "clearly and beyond a doubt entitled to be admitted." *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026).

41. *Buenrostro-Mendez* addressed statutory detention authority.[2] It did not decide whether the Constitution permits civil immigration detention of a long-term interior resident with no meaningful, individualized custody process. *See id.*

C. The Limited Effect of *Maldonado Bautista* Outside the Central District of California

42. In *Maldonado Bautista v. Santacruz*, the Central District of California entered final judgment holding that the nationwide "Bond Eligible Class" is detained under INA § 236(a), 8 U.S.C. § 1226(a), and is not subject to mandatory detention under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2). The court also vacated DHS's July 8, 2025, interim detention guidance. Final Judgment at 1–2, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). The court later enforced that judgment and vacated *Matter of Yajure-Hurtado. Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026).

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[2] Since *Buenrostro-Mendez*, the circuit split has deepened, now 5-2, and the Fifth Circuit's view now appears to be a minority position shared principally by the Eighth Circuit. Compare *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498–508 (5th Cir. 2026), and *Avila v. Bondi*, 170 F.4th 1128, 1132–37 (8th Cir. 2026), with *Cunha v. Freden*, No. 25-3141-pr, 2026 WL 1146044, at *1–2, *16 (2d Cir. Apr. 28, 2026) (holding that § 1226(a), not § 1225(b)(2)(A), governs detention of a long-term interior resident who entered without inspection and was later arrested in the interior); *Hernandez Alvarez v. Warden*, Fed. Det. Ctr. Miami, Nos. 25-14065 & 25-14075, slip op. at 12, 34–35, 55 (11th Cir. May 6, 2026) (rejecting the Government's reading of § 1225(b)(2)(A) and affirming habeas relief); *Lopez-Campos v. Raycraft*, Nos. 25-1965/1969/1978/1982, slip op. at 5 (6th Cir. May 11, 2026) (joining the Second and Eleventh Circuits, and Judge Lee's individual opinion in *Castañon-Nava*, in holding that § 1225(b)(2)(A) does not apply to noncitizens like petitioners); *Castañon-Nava* v. U.S. Dep't of Homeland Sec., No. 25-3050, 2026 WL 1223250 (7th Cir. May 5, 2026). Yesterday, the Tenth Circuit in *Santillan Quiroz v. Mullin*, 2026 WL 1876709 (10th Cir. June 30, 2026) joined the majority of circuits in holding that a plain statutory reading provides that detention of individuals such as Petitioner here is under 8 U.S.C. §1226(a), not under § 1225(b)(2). Thus, the Fifth and Eighth Circuits stand on one side of the statutory split, while the Second, Sixth, Tenth, and Eleventh Circuits—and persuasive reasoning from the Seventh Circuit—have rejected the Government's broad no-bond detention theory. In any event, *Buenrostro-Mendez* and *Avila* address the statutory detention-authority question. They do not foreclose Petitioner's separate procedural due process claim.

43. Petitioner falls within the Maldonado Bautista Bond Eligible Class because he entered without inspection, was not apprehended upon arrival, and was not initially detained under INA §§ 236(c), 235(b)(1), or 241. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

44. However, *Maldonado Bautista* does not presently provide operative class-wide relief in Texas. On March 6, 2026, the Ninth Circuit temporarily stayed the judgment and enforcement order to the extent they extend beyond the Central District of California. And in this Circuit, *Buenrostro-Mendez* remains binding on the Government's statutory detention theory.

45. Petitioner therefore cites *Maldonado Bautista* as persuasive support for his preserved statutory argument. His request for immediate relief, however, rests independently on procedural due process: Respondents continue to detain him in civil custody without any meaningful, workable custody review mechanism before a neutral decision-maker.

VII. ARGUMENT

A. This Court Has Habeas Jurisdiction to Remedy Unlawful Detention

46. Petitioner challenges only the legality of his present civil detention and the absence of constitutionally adequate custody procedures. He does not seek review of a final removal order and does not challenge the merits of removability.

47. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) and § 2243 to determine whether Petitioner "is in custody in violation of the Constitution or laws . . . of the United States" and to order release or other appropriate relief. *See Zadvydas*, 533 U.S. at 687–88, 699–700; *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018).

48. The INA's jurisdiction-channeling provisions do not bar review because Petitioner does not seek review of a final order and does not challenge the commencement or adjudication of removal proceedings; he challenges only ongoing detention authority and the absence of constitutionally adequate custody process. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000); *Duron v. Johnson*, 898 F.3d 644, 647 (5th Cir. 2018).

B. *Buenrostro-Mendez* Does Not Foreclose Petitioner's As-Applied Procedural Due Process Claim

49. In *Buenrostro-Mendez v. Bondi*, the Fifth Circuit addressed a statutory detention-authority question and held that certain noncitizens who entered without inspection may be treated as "applicants for admission" such that DHS may invoke INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), during pending § 1229a proceedings. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026).

50. *Buenrostro-Mendez* did not decide whether the Constitution permits DHS to detain a long-term interior resident for civil immigration purposes with no meaningful, individualized custody process. The statutory label DHS invokes does not eliminate Petitioner's protected liberty interest. *See Zadvydas*, 533 U.S. at 690.

51. This Court may grant relief on procedural due process grounds without deciding any statutory detention-authority dispute. Courts in this District have done so in materially similar circumstances, including where Respondents invoked § 1225(b)(2) and immigration judges declined bond jurisdiction. *See, e.g., Guevara Carabantes v. Bondi*, No. 1:26-CV-446-RP (W.D. Tex. Mar. 5, 2026) (granting habeas corpus, ordering immediate release, and holding that *Thuraissigiam* does not bar a detainee's procedural due process claim because the petitioner did not challenge admission or seek a right to

remain in the United States but instead sought only a meaningful opportunity to apply for release from civil detention); *Paredes-Paredes v. Bondi*, No. 1:26-cv-00359-RP (W.D. Tex. Feb. 27, 2026); *Dieng v. Noem*, No. 5:26-cv-00223-XR (Feb. 25, 2026); *Valencia Reyes v. Noem*, No. 5:25-cv-01921-XR (Feb. 25, 2026); *Sosnava Rodriguez v. Ortega*, No. 1:26-cv-00273-RP (W.D. Tex. Feb 25, 2026); *Ruiz-Velazquez v. Bondi*, No. 1:26-cv-00286-RP (W.D. Tex. Feb. 20, 2026); *Espinosa-Guillen v. Bondi*, No. 1:26-cv-00295-RP (W.D. Tex. Feb. 20, 2026); *Escobar-Arauz v. Noem*, No. EP-25-cv-00619-DB, 2025 WL 3543648, at *5–6 (W.D. Tex. Dec. 10, 2025); *Zafra v. Noem*, No. EP-25-cv-00541-DB, 2025 WL 3239526, at *3 (W.D. Tex. Nov. 20, 2025); *Maya-Contreras v. Warden of ERO El Paso East Montana Camp*, et al., No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026); *Clemente Ceballos v. Garite*, No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026). *But see Menjivar-Araujo*, No. 1:26-cv-00237-ADA-SH (W.D. Tex. Mar. 2, 2026) (finding that "[a]s an 'applicant for admission,' Petitioner has 'only those rights regarding admission that Congress has provided by statute.' *Thuraissigiam*, 591 U.S. at 140, 140 S.Ct. 1959.").

C. Petitioner States a Meritorious As-Applied Procedural Due Process Claim Requiring a Meaningful, Individualized Custody Hearing

52. "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) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Noncitizens are entitled to due process of law under the Fifth Amendment. *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

i. *Private Interest and Heightened Liberty Interest*

55. The private interest at stake is profound, and it is heightened by Petitioner's long residence in the United States. *See, e.g.*, *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP,

2025 WL 2976923, at *9 (W.D. Tex. Oct. 21, 2025) (finding a cognizable interest in freedom from detention for a petitioner who spent over 20 years at liberty in the United States); *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025); *Escobar-Arauz v. Noem*, No. EP-25-cv-00619-DB, 2025 WL 3543648, at *5–6 (W.D. Tex. Dec. 10, 2025); *Aldana-Barreira v. Bondi*, 1:26-cv-00436-DAE (W.D. Tex March 12, 2026).

56. Petitioner's private interest is profound. He is confined in civil immigration detention and separated from his wife, his U.S. citizen children, and his family in Texas.

57. Petitioner first entered the United States without inspection in approximately 2002, when he was about fifteen years old, and has remained in the United States since that time, more than half his entire life. He has now lived in this country for more than twenty-four years.

58. During that time, Petitioner built his life in Texas. He has lived in Austin, worked in construction for many years, consistently supported his family through his labor, and filed taxes using an ITIN. He appears prima facie eligibility for statutory relief at 8 U.S.C. §1229b(b), and would prima facie be eligible to show also that he qualifies for DACA as he meets the requirements since he arrived at age 15, was here continuously between 2007 and 2012, studied or is enrolled in such program, and has no disqualifying criminal record. 8 C.F.R. §236/21. His wife, Isamar Fuentes, is a DACA recipient.

59. Petitioner's family ties further heighten the liberty interest at stake. He is legally married to Isamar, with whom he has lived as a family since approximately 2012. They are raising their four U.S. citizen children in the Austin area.

60. Petitioner's longstanding residence, steady work history, and family ties underscore the severity of the liberty deprivation at issue here. Continued detention without meaningful custody process imposes a severe and unnecessary deprivation of liberty.

ii. *Risk of Erroneous Deprivation and Value of Additional Safeguards*

62. The risk of erroneous deprivation is extreme where there is no neutral custody determination at all. Under Respondents' position, Petitioner is categorically detained based solely on DHS's unilateral statutory label. He receives no findings on danger or flight risk, no allocation of burden, no record of individualized analysis, and no meaningful opportunity to present evidence of his more than twenty-four years of residence, his U.S. citizen children, his lawful permanent resident and U.S. citizen family members, his work history, his tax filing history, or his available relief from removal.

63. The need for individualized process is especially clear here. Petitioner was stopped while heading to work on June 30, 2026. Within approximately thirty minutes, ICE took him into custody. Before this detention, Petitioner had no contact with ICE.

64. Additional safeguards have obvious value. A custody hearing before a neutral decision-maker is the minimal safeguard that permits both sides to present evidence, requires the Government to articulate and support any claim of danger or flight risk, and allows an adjudicator to determine whether detention is necessary or whether less restrictive conditions of supervision will fully serve the Government's legitimate interests.

iii. *Government Interests and Administrative Burden*

65. The Government's interests in ensuring appearance and protecting the community are legitimate, but those interests are served by individualized custody determinations and conditions of supervision where appropriate. They do not justify categorical detention of a

long-term resident with substantial family ties, steady employment, and available relief from removal.

66. Petitioner's equities show why a neutral custody hearing is necessary. He has lived in the United States for more than twenty-four years, has four U.S. citizen children, has a lawful permanent resident mother-in-law in Texas, and has worked for years in construction, and has filed taxes. These facts are directly relevant to danger, flight risk, and whether conditions of supervision would be sufficient.

67. The burden of providing a hearing is minimal because custody hearings are routine in the immigration system, and Respondents already litigate risk and conditions of release in ordinary custody cases every day.

iv. *Conclusion under Mathews*

68. On Petitioner's facts, the *Mathews* balance compels a meaningful, individualized custody hearing within a prompt and enforceable deadline, with release if Respondents cannot provide a workable hearing mechanism within the time ordered by the Court.

D. Petitioner Preserves the Statutory Detention-Authority Argument Under §§ 1225 and 1226

69. Petitioner maintains that the INA's text, structure, and implementing regulations draw a clear line between § 1225 detention associated with inspection and admission determinations and § 1226 detention for noncitizens already present in the United States in full § 1229a proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 287, 303 (2018); Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

70. Prior to the Fifth Circuit's decision in *Buenrostro-Mendez*, courts in this District rejected the expanded § 1225 detention theory and granted habeas relief on materially similar facts.

See, e.g., Reyes Perez v. Bondi, No. SA-25-CV-1302-XR, at 8–13 (W.D. Tex. Nov. 26, 2025); *Santiago-Santiago v. Bondi*, 2025 WL 2792588, at *3 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, 2025 WL 2691828, at *5 (W.D. Tex. Aug. 26, 2025); *Erazo Rojas v. Bondi*, 2025 WL 3038262, at *2 (W.D. Tex. Oct. 30, 2025); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).

71. Petitioner preserves his statutory argument notwithstanding *Buenrostro-Mendez*. Although *Buenrostro-Mendez* is binding in this Court, its reading of § 1225(b)(2)(A) now stands on the minority side of an active circuit split, aligned principally with the Eighth Circuit. *Compare Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498–508 (5th Cir. 2026), and *Avila v. Bondi*, 170 F.4th 1128, 1132–37 (8th Cir. 2026), with *Cunha v. Freden*, No. 25-3141-pr, 2026 WL 1146044, at *1–2, *16 (2d Cir. Apr. 28, 2026); *Hernandez Alvarez v. Warden*, Fed. Det. Ctr. Miami, Nos. 25-14065 & 25-14075, slip op. at 4–5, 34–35, 55 (11th Cir. May 6, 2026); *Lopez-Campos v. Raycraft*, Nos. 25-1965/1969/1978/1982, slip op. at 2–5, 24 (6th Cir. May 11, 2026), and *Santillan Quiroz v. Mullin*, 2026 WL 1876709 (10th Cir. June 30, 2026). The Second, Sixth, Tenth and Eleventh Circuits have rejected DHS's broad no-bond detention theory and held that § 1226, not § 1225(b)(2)(A), governs the detention of noncitizens who entered without inspection, lived in the interior, and were later arrested away from the border. The Seventh Circuit has also offered persuasive support for that reading, although its decision was fractured. *See Castañon-Nava v. U.S. Dep't of Homeland Sec.*, No. 25-3050, 2026 WL 1223250, at *9–21 (7th Cir. May 5, 2026) (Lee, J.).

72. Indeed, the split is why Petitioner preserves the statutory issue for further review. Section 1225(b)(2)(A) is best read as an inspection-and-admission provision governing noncitizens

who are actually seeking admission, not as a sweeping interior-detention mandate for every person who once entered without inspection. DHS's contrary reading would transform § 1225(b)(2)(A) into a broad no-bond detention statute for long-term interior residents and would substantially displace § 1226(a)'s bond framework, as well as Congress's targeted mandatory-detention scheme in § 1226(c). *See Buenrostro-Mendez*, 166 F.4th at 508–15 (Douglas, J., dissenting).

73. Petitioner therefore maintains that § 1226(a), not § 1225(b)(2)(A), governs his detention because he was arrested in the interior and placed in ordinary § 1229a removal proceedings. In any event, the statutory split does not resolve the separate constitutional question presented here. Even if this Court follows *Buenrostro-Mendez* and assumes § 1225(b)(2)(A) applies, that decision addresses detention authority; it does not decide whether continued civil detention without any meaningful custody process before a neutral decision-maker satisfies the Due Process Clause.

E. Release Under Conditions No More Restrictive Than Those Governing Petitioner's Liberty Before Arrest is the Appropriate Remedy; Alternatively, the Court Should Order Prompt, Enforceable Custody Process

74. Immediate release is the traditional remedy in habeas. The habeas statute directs courts to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. And "[t]he traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). The Supreme Court has likewise recognized that the "typical remedy" for unlawful executive detention is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

75. Texas authority supports release as the proper remedy where immigration detention violates governing law or due process. *See e.g. Ortega-Aguirre v. Noem*, No. 4:25-cv-

04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025); *Noyola v. Bondi*, No. 1:26-cv-405-RP, 2026 WL 607266, at *5 (W.D. Tex. Mar. 4, 2026); *Aldana-Barreira v. Bondi*, 1:26-cv-00436-DAE (W.D. Tex March 12, 2026), citing *Azua-Zuniga v. Bondi*, 1:26-cv-287-RP (W.D. Tex. Feb. 20, 2026); *Valencia-Reyes v. Bondi*, 25-CA-01921-XR (W.D. Tex. 2026); *Longoria-Mendoza v. Bondi*, 823 F.Supp.3d 636 5:26-cv-0728-JKP (W.D. Tex Feb. 26, 2026).

76. Release is especially appropriate because the constitutional injury here stems from the Government's decision to arrest and detain Petitioner without meaningful, individualized custody process. A later bond hearing does not fully cure that deprivation. *See Noyola*, 2026 WL 607266, at *5.

77. Nor is an immigration-court bond hearing the most appropriate or efficient use of this Court's equitable authority unless it is tightly controlled. Texas cases show why. Courts have had to confront the practical risk that an immigration judge may conclude he lacks authority to conduct the ordered hearing, *see Vargas v. Bondi*, No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), report and recommendation adopted, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025), or that ICE will impose additional restraints not ordered by any neutral decision-maker, *see Montes Aguillon v. Bondi*, No. EP-26-cv-71-KC, 2026 WL 531899, at *2 (W.D. Tex. Feb. 25, 2026). Texas courts have therefore emphasized the need for explicit deadlines, clear burdens of proof, and continued judicial supervision. *See Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025); *Dominguez v. Noem*, No. 25-cv-0074, 2026 WL 67200, at *4 (W.D. Tex. Jan. 8, 2026).

78. Those concerns matter here because a remedy that depends on later administrative compliance risks rendering relief illusory while Petitioner's unlawful detention continues.

79. Accordingly, the Court should order Petitioner released immediately under conditions no more restrictive than those governing his liberty before arrest. Respondents should further be barred from re-detaining Petitioner absent constitutionally adequate pre-deprivation process before a neutral decision-maker and a showing, based on current individualized facts, that detention or materially more restrictive conditions are necessary because Petitioner poses a danger to the community, presents a serious flight risk, or has materially violated a lawful condition of release.

80. In the alternative, if the Court declines to order immediate release as the primary remedy, it should order constitutionally adequate custody process within 48 hours before a neutral decision-maker. At that hearing, Respondents should bear the burden of proving by clear and convincing evidence that continued detention or materially more restrictive conditions are necessary. The neutral decision-maker should also be required to consider Petitioner's ability to pay any monetary bond and whether less restrictive alternatives would fully serve the Government's interests. *See Hernandez-Fernandez*, 2025 WL 2976923, at *10.

53. Any alternative hearing remedy must include explicit protections to ensure that the relief is real rather than illusory. Respondents should be barred from arguing that the immigration judge lacks jurisdiction to conduct the hearing, from invoking any automatic stay if the neutral decision-maker grants release or bond, and from unilaterally imposing electronic monitoring, ankle monitoring, home confinement, or other release conditions not expressly ordered by the neutral decision-maker. *See Vargas*, 2025 WL 3300446, at *5; *Montes Aguillon*, 2026 WL 531899, at *2. The Court should prohibit ICE from invoking regulatory

stays, under 8 C.F.R. § 1003.19(i)(1) or (2) if an immigration judge determines a bond should be set.

VIII. GROUNDS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Due Process Clause (Fifth Amendment)

81. Petitioner incorporates by reference all allegations above as if fully set forth herein.

82. Civil immigration detention is permissible only to serve legitimate regulatory purposes and must remain tethered to flight risk or danger through meaningful process. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001). The process due is assessed under *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976).

83. As applied here, Respondents are detaining a long resident interior arrestee without any meaningful, individualized custody hearing before a neutral decisionmaker and without findings regarding danger, flight risk, or less restrictive alternatives. By foreclosing any workable custody forum while continuing civil incarceration, Respondents impose an acute and ongoing deprivation of liberty that violates procedural due process. *See Zadvydas*, 533 U.S. at 690–93; *Mathews*, 424 U.S. at 333–35; *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

84. Even if Respondents invoke 8 U.S.C. § 1225(b)(2), that statutory label does not eliminate Petitioner's protected liberty interest or the Constitution's procedural requirements. Courts in this District have granted relief on materially similar as applied procedural due process claims, including where the Government invoked § 1225(b)(2) and immigration judges declined bond jurisdiction. *See, e.g., Dieng v. Noem,* No. 5:26-cv-00223-XR (Feb. 25,

2026); *Valencia Reyes v. Noem,* No. 5:25-cv-01921-XR (Feb. 25, 2026); *Sosnava Rodriguez v. Ortega*, No. 1:26-cv-00273-RP (W.D. Tex. Feb 25, 2026); *Escobar-Arauz v. Noem*, No. EP-25-cv-00619-DB, 2025 WL 3543648, (W.D. Tex. Dec. 10, 2025); *Duran-Aguila v. Bondi*, No. EP-26-cv-241-KC (W.D. Tex. Feb. 9, 2026).

85. Due process also requires the Government to bear the burden to justify continued civil detention. Given the severe loss of liberty and the heightened risk of error absent safeguards, the Government should be required to prove danger or flight risk by clear and convincing evidence. *Addington v. Texas*, 441 U.S. 418, 425–27 (1979).

86. Petitioner has been detained since June 30, 2026, without a meaningful, individualized custody determination. Continued detention without the required process violates the Fifth Amendment. Petitioner is entitled to relief ordering a prompt custody hearing under constitutionally adequate procedures within a fixed deadline, or release if Respondents cannot provide a workable hearing mechanism.

SECOND CAUSE OF ACTION
Failure to Follow Governing Custody Procedures and Denial of a Workable Custody Review Mechanism (8 C.F.R. §§ 236.1, 1003.19, 1236.1; *Accardi*)

87. Petitioner incorporates by reference all allegations above as if fully set forth herein.

88. Petitioner is detained in ICE civil custody while in removal proceedings under 8 U.S.C. § 1229a. The immigration custody system is implemented through binding regulations that govern custody determinations, detention, release, and custody redetermination procedures. *See* 8 C.F.R. § 236.1; 8 C.F.R. §§ 1003.19(a), 1236.1(d).

89. As applied here, Respondents have used a unilateral statutory label to foreclose any workable custody review mechanism. Petitioner has been denied a merits custody

determination before a neutral decision-maker and has received no individualized findings addressing danger, flight risk, or less restrictive alternatives.

90. Longstanding administrative law principles require agencies to follow their own binding regulations and procedures. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954). Respondents cannot lawfully administer a detention regime that, in practice, eliminates the custody procedures and review mechanisms their own regulations establish for noncitizens in removal proceedings, while continuing to impose severe civil incarceration with no neutral merits review.

91. Respondents' position results in effectively unreviewable confinement for a long-resident, noncitizen with substantial ties to the community and minimal criminal history, based on a categorical classification rather than an individualized custody determination grounded in evidence (and compliant with the Constitution). That is inconsistent with the governing custody framework and indeed violates *Accardi's* requirement that agencies comply with their own rules and procedures.

92. Respondents' failure to provide a workable custody review mechanism and to follow governing custody procedures independently supports habeas relief.

93. Petitioner is entitled to relief requiring a prompt, individualized custody hearing under constitutionally adequate procedures within a fixed deadline, and production of the operative custody records sufficient to allow meaningful review, or release if Respondents cannot provide a workable hearing mechanism by a court-ordered deadline.

THIRD CAUSE OF ACTION
Unlawful Detention Not Authorized by the INA as Applied (Preserved Statutory Claim)

94. Petitioner incorporates by reference all allegations above as if fully set forth herein.

95. The INA establishes a custody framework governing noncitizens in removal proceedings. In ordinary removal proceedings under 8 U.S.C. § 1229a, the default custody statute for noncitizens already present in the United States is 8 U.S.C. § 1226(a), which authorizes discretionary detention with the possibility of release on bond or conditional parole, subject to narrow mandatory detention carve-outs in 8 U.S.C. § 1226(c). *See Jennings v. Rodriguez*, 583 U.S. 281, 287, 303 (2018).

96. Respondents have employed a categorical approach that forecloses IJ custody jurisdiction and eliminates any meaningful custody forum for Petitioner. As applied, that position denies Petitioner the custody framework Congress provided and results in continued detention without the process and review mechanisms that accompany § 1226(a) detention.

97. Petitioner recognizes that *Buenrostro-Mendez* currently constrains statutory detention-authority arguments in this Circuit to the extent Respondents invoke § 1225(b)(2). Petitioner nevertheless expressly preserves his statutory claim that § 1225(b) does not authorize categorical no-forum detention for an interior detainee in full § 1229a proceedings and that § 1226(a) governs his custody, in order to avoid waiver and for further review.

98. Regardless of the statutory label, detention that forecloses any meaningful custody adjudication is unlawful as applied and warrants habeas relief.

IX. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

(1) assume jurisdiction over this matter;

(2) issue an order directing Respondents to show cause why the writ should not be granted;

(3) declare that Petitioner's June 23, 2026, apprehension and continued detention are unlawful;

(4) order Respondents to file with the Court the complete administrative record, including all relevant records maintained by the DHS and the Department of Justice concerning Petitioner's arrest, detention, custody classification, and removal proceedings;

(5) retain jurisdiction over this Petition notwithstanding any change in Petitioner's place of detention or immediate custodian and, pending final resolution of this matter, prohibit Respondents from removing Petitioner from the United States or transferring him outside the Western District of Texas without prior leave of Court, and require Respondents to ensure that this Court can effectuate any relief ultimately granted, including by returning Petitioner to this District if necessary;

(6) grant the writ and order Petitioner's immediate release under conditions no more restrictive than those governing his liberty before arrest;

(7) order that, upon release, Respondents return to Petitioner all property and personal effects taken from him at or during detention, including his identification documents, immigration documents, cellular telephone, money, keys, and any other personal property;

(8) order that, if Respondents later seek to re-detain Petitioner, they must first comply with all applicable statutory and constitutional procedures, including providing a custody hearing before a neutral Immigration Judge under 8 U.S.C. § 1226(a), where required; and

(9) grant such other and further relief as the Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner and his family, depriving them of his care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted on July 1, 2026,

/s/ Stephen O'Connor
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Fernando Santiago-Cruz, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 1st day of July, 2026.

s/ Stephen O'Connor
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