UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION
CIVIL No. 5:26-cv-04183

VIVIAN REYNAVI GALVEZ MATIAS Petitioner v. ROSE THOMPSON, in his official capacity as Warden of the Karnes County Immigration Processing Center; SYLVESTER M. ORTEGA, in his official capacity as Field Office Director of ICE Enforcement and Removal Operations San Antonio Field Office; MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security; TODD BLANCHE, in his official capacity as Acting Attorney General of the United States Respondents.	**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

Petitioner has been detained by Immigration and Customs Enforcement (ICE) for more than 1 week without any individualized determination that he presents a flight risk or danger to the community. He seeks immediate release or, at minimum, a hearing before a neutral decision-maker. Petitioner lived in the United States for nearly 12 years without ever being apprehended, detained, or placed in removal proceedings. During that time, he maintained stable employment and residence, built deep family ties in the United States, and had zero criminal arrests, charges, or convictions. He was detained solely due to a change in government policy, with no change in his individual circumstances.

This case does not challenge the Fifth Circuit's recent decision in Buenrostro-Mendez v. Bondi, No. 25-20496 (5th Cir. Feb. 6, 2026), which held that certain noncitizens are subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A). Rather, it challenges the constitutional application of that statute to Petitioner's specific circumstances.

The Fifth Circuit recognized that constitutional questions about prolonged detention under §1225(b)(2)(A) were "wholly speculative" at the time of its decision. Buenrostro-Mendez, slip op. at 21. Petitioner's 1-week detention, following nearly 12 years of law-abiding residence in the United States without a single criminal violation or immigration infraction, makes these concerns concrete. The Constitution does not permit indefinite detention without individualized review, regardless of statutory classification.

II. JURISDICTION AND AUTHORITY

1. Jurisdiction lies under 28 U.S.C. §2241 and 28 U.S.C. §1331.

2. The Fifth Circuit recognizes habeas jurisdiction over challenges to the fact and legality of immigration detention, including constitutional claims. See Zadvydas v. Davis, 533 U.S. 678

(2001); Pierre v. United States, 525 F.2d 933 (5th Cir. 1976).

3. This Court has authority to issue a TRO to halt ongoing constitutional violations. See Opulent Life Church v. City of Holly Springs, 697 F.3d 279, 295 (5th Cir. 2012).

III. STATEMENT OF FACTS

1. Background and Family Ties

4. Petitioner is 34 years old and has resided in the United States for 12 years, since 2014.

5. Petitioner and his family live at [redacted].

6. Petitioner has no criminal record and no history of immigration violations other than unlawful entry in 2014.

7. Prior to his detention on June 22, 2026, Petitioner had never been apprehended, detained, or placed in removal proceedings by any immigration authority. He lived openly in the United States and had no prior ICE contact of any kind.

2. Detention Under §1225(b)(2)(A)

8. On June 22, 2026, ICE apprehended Petitioner after he was stopped while on his way to work at a red light, and he was subsequently taken into ICE custody.

9. ICE asserts authority to detain Petitioner under 8 U.S.C. §1225(b)(2)(A), claiming he is an "applicant for admission" subject to mandatory detention based on his manner of entry 12 years ago.

10. ICE has provided no explanation for its decision to detain Petitioner, other than changed "policy" following the Fifth Circuit's decision in Buenrostro-Mendez v. Bondi, No. 25-20496 (5th Cir. Feb. 6, 2026).

11. Petitioner has been continuously detained at Karnes County Immigration Processing Center since June 22, 2026—a total of more than 1 week to date. *See attached.* Exhibit A: ICE Locator

3. Current Removal Proceedings and Likelihood of Relief

12. Petitioner is in removal proceedings before the San Antonio Immigration Court.

13. His next master calendar hearing is scheduled for July 22, 2026. ICE has provided no timeline for completion of proceedings. *See attached.* Exhibit B: EOIR Automated Case Information

14. Petitioner intends to apply for Asylum pursuant to 8 U.S.C. § 1158 and Cancellation of Removal under 8 U.S.C. § 1229b(b).

4. Harm from Continued Detention

15. Petitioner's continued detention causes severe and irreparable harm.

16. **Economic Harm:** Petitioner's continued detention has caused significant financial hardship to his family. He was the primary provider for his household, and his absence has left his children and family struggling to meet their daily financial needs and maintain stability in the home.

17. **Familial Harm:** Petitioner's continued detention has caused substantial emotional and familial harm to his two children, ages 13 and 7. His absence has been deeply distressing for both children and has disrupted the emotional stability of the household. In particular, his daughter has become depressed as a result of not seeing or hearing from her father. The children continue to suffer emotionally from the separation, while the family as a whole has been burdened both emotionally and financially by Petitioner's detention.

18. **Inability to Defend Against Removal:** Petitioner is unable to gather documentary evidence for his relief application while in custody; he has limited access to his attorney while in ICE custody (1 hour per week); he cannot locate witnesses or obtain declarations needed to defend his case.

19. Each day of continued detention exacerbates these harms.

IV. CLAIM FOR RELIEF

VIOLATION OF FIFTH AMENDMENT DUE PROCESS

20. Petitioner incorporates all preceding paragraphs.

21. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of life, liberty, or property without due process of law.

22. This guarantee extends to all persons within the United States, including noncitizens in removal proceedings. Zadvydas v. Davis, 533 U.S. 678, 693 (2001) ("Once an alien 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 is lawful, unlawful, temporary, or permanent."); Reno v. Flores, 507 U.S. 292, 306 (1993).

23. Petitioner's detention violates both substantive and procedural due process in multiple, reinforcing ways.

A. Substantive Due Process: Indefinite Detention Without Individualized Determination

24. The Supreme Court has held that indefinite or prolonged civil detention raises "serious constitutional concerns." Zadvydas, 533 U.S. at 690.

25. To avoid these concerns, the Supreme Court has "read an implicit limitation" into immigration detention statutes requiring individualized determinations and temporal limits. Id. at 689.

26. The Supreme Court identified six months as a "presumptively reasonable period" for immigration detention. Id. at 701.

27. While Petitioner has been detained for 1 week, he faces indefinite detention with no end in sight:

a. Section 1225(b)(2)(A) contains no temporal limitation whatsoever;

b. The statute provides for detention "pending a proceeding under section 1229a," which could last months or years;

c. Petitioner's removal proceedings have no definite conclusion date and could last months or over a year for the adjudication and appellate process to conclude;

d. Cases involving applications for relief and appeal to the Board of Immigration Appeals routinely take 9–24+ months to resolve;

e. ICE has provided no timeline for completion of proceedings or release from detention.

28. Even though Petitioner has been detained for 1 week, the trajectory of his case makes clear he will be detained far beyond the six-month presumptively reasonable period absent intervention by this Court.

29. Unlike the post-deportation/removal order detention at issue in Zadvydas, Petitioner's detention is even more troubling because:

a. He is detained during, not after, removal proceedings, when he is actively pursuing relief;

b. The proceedings themselves could last indefinitely;

c. He has had no hearing whatsoever to determine the necessity of detention; and

d. He faces categorical detention based on a recently-changed legal classification, not individualized facts.

30. Respondents have made no individualized determination that Petitioner's continued detention is necessary to prevent flight or danger to the community, which are the only constitutionally permissible bases for preventive civil detention. United States v. Salerno, 481 U.S. 739, 748 (1987).

31. To the contrary, all evidence demonstrates Petitioner poses neither risk:

a. Petitioner has resided in the United States for 12 years without a single criminal arrest, charge, or conviction;

b. Petitioner maintained stable employment and residence throughout his time in the United States;

c. Petitioner had zero violations of any law or immigration condition;

d. Petitioner has deep family ties to the United States, including a U.S. citizen child.

e. No individualized assessment has ever identified Petitioner as a flight risk or danger.

32. Petitioner's detention is purely categorical, based solely on his legal classification as an "applicant for admission"—not on any individualized finding that he personally requires detention.

33. This categorical, indefinite detention without individualized determination violates substantive due process.

B. Procedural Due Process: Complete Deprivation of Hearing

34. The Fifth Amendment requires meaningful procedural protections before deprivation of physical liberty—one of the most fundamental interests protected by the Constitution.

35. Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), courts apply a three-part balancing test to determine what process is due: (1) the private interest affected by government action; (2) the risk of erroneous deprivation through procedures used and the probable value of additional safeguards; and (3) the government's interest, including the fiscal and administrative burdens of additional procedures.

36. Applying the Mathews balancing test here, the constitutional scales tip overwhelmingly in favor of providing Petitioner a hearing.

37. **First Factor: Private Interest.** Petitioner's private interest is among the most fundamental

protected by the Constitution—physical liberty and the ability to remain with his family:

a. Petitioner faces ongoing separation from his family;

b. He has lost his livelihood and ability to support his family;

c. He cannot care for his family who depends on him;

d. His detention prevents him from effectively defending against removal;

e. Each day of detention causes harms that cannot be remedied through monetary compensation.

38. **Second Factor: Risk of Erroneous Deprivation.** The risk of erroneous deprivation here is not merely substantial—it is 100%:

a. Respondents have made zero individualized determination about Petitioner;

b. The detention is purely categorical based on manner of entry 12 years ago;

c. No decision-maker has considered Petitioner's individual circumstances, ties, compliance history, or lack of flight risk;

d. Additional procedural safeguards—a hearing before a neutral decision-maker—would dramatically reduce this risk at minimal cost;

e. Such hearings occur routinely under §1226(a) for similarly situated individuals and impose minimal burden on the system.

39. **Third Factor: Government Interest.** The government's interests are preventing flight and protecting public safety. However:

a. These interests are not served by detaining someone who has proven through years of law-abiding conduct that he will appear and poses no danger;

b. A hearing would impose minimal administrative burden, as ICE routinely conducts such hearings under §1226(a);

c. The government's interest in uniform application of §1225(b)(2)(A) does not outweigh

fundamental liberty interests.

40. The Mathews balancing test overwhelmingly favors providing Petitioner a hearing before a neutral decision-maker with authority to order release upon a showing that he is not a flight risk or danger.

41. At minimum, due process requires:

a. Notice of the reasons for continued detention;

b. An opportunity to present evidence that Petitioner is neither a flight risk nor a danger to the community;

c. A hearing before a neutral decision-maker (not ICE, which is the prosecuting/detaining authority); and

d. Authority in that decision-maker to order release on bond or conditions if Petitioner meets his burden.

42. Respondents have provided none of these procedural protections. Petitioner has received no hearing, no opportunity to present evidence of his ties and compliance, and no review by any neutral arbiter.

43. This complete deprivation of process violates the Fifth Amendment.

C. Equal Protection: Arbitrary Classification

44. The Fifth Amendment's due process clause incorporates equal protection principles applicable to federal government action. Bolling v. Sharpe, 347 U.S. 497, 499 (1954).

45. Equal protection requires that the government treat similarly situated individuals alike, absent a rational basis for differential treatment.

46. Respondents treat Petitioner—who entered the United States without inspection 12 years ago—fundamentally differently from a noncitizen who entered lawfully but overstayed a visa for

many years.

47. These two individuals are identically situated in all relevant respects:

a. Both are present in the United States without lawful status;

b. Both are subject to removal proceedings;

c. Both have identical equities (length of presence, U.S. citizen family, employment, community ties);

d. Both present identical levels of flight risk and danger (or lack thereof); and

e. Both may be eligible for the same forms of relief from removal.

48. Yet the government treats them completely differently:

a. The visa overstay is detained under §1226(a) and receives a bond hearing before an immigration judge;

b. At that hearing, the judge makes an individualized determination of flight risk and danger;

c. If the noncitizen proves he is not a flight risk or danger, the judge may order release on bond;

d. In contrast, Petitioner receives mandatory detention under §1225(b)(2)(A) with no hearing and no possibility of release on bond.

49. This differential treatment is based solely on the manner of entry many years ago—a factor that bears no rational relationship to the government's stated interests in preventing flight and protecting public safety.

50. Indeed, the manner of entry 12 years ago tells us nothing about current flight risk or danger, which is why ICE conducts individualized assessments when deciding whether to detain or release under §1226(a).

51. The government's asserted interest in "equal treatment" of noncitizens at the border and in the interior cannot justify this arbitrary classification:

a. First, that interest relates to uniformity in removal proceedings (covered by §1225(a)(1)'s definition of "applicant for admission"), not detention;

b. Second, even if relevant to detention, it does not explain why long-term residents should be treated identically to recent border crossers; and

c. Third, it does not explain why manner of entry years ago should control over a current, proven lack of flight risk.

52. This classification violates equal protection because it treats identically situated individuals differently based on an arbitrary factor unrelated to any legitimate government interest.

D. Arbitrary and Capricious Government Action: Detention After Prolonged Non-Enforcement

53. The Due Process Clause prohibits arbitrary government action. County of Sacramento v. Lewis, 523 U.S. 833, 845–46 (1998) (due process protects against "the exercise of power without any reasonable justification in the service of a legitimate governmental objective").

54. The government's sudden decision to detain Petitioner after 12 years of non-enforcement, with no change whatsoever in his individual circumstances, constitutes arbitrary government action.

55. During 12 years of physical presence in the United States, Petitioner built an established life in reasonable reliance on his circumstances:

a. Petitioner maintained continuous, stable employment;

b. Petitioner maintained continuous residence at the same address for 12 years;

c. Petitioner established deep family ties;

d. Petitioner had zero criminal arrests, charges, or convictions during this period;

e. Petitioner was never identified as a flight risk or danger by any government authority; and

f. Petitioner paid taxes and contributed to his community throughout his residence.

56. The government's prolonged non-enforcement over 12 years, combined with Petitioner's complete compliance with all applicable laws during that period, demonstrates that Petitioner presents no flight risk or danger—the only constitutionally permissible bases for civil preventive detention. Salerno, 481 U.S. at 748.

57. Now, with no change in Petitioner's individual circumstances—no new criminal conduct, no failed appearance, no change in family ties—the government has detained him based solely on a policy change following Buenrostro-Mendez. This is the paradigm of arbitrary action:

a. It punishes a law-abiding individual for the government's own policy reversal;

b. It ignores 12 years of evidence that Petitioner presents no flight risk or danger;

c. It treats Petitioner's lawful, law-abiding conduct as irrelevant to the detention determination;

d. It fails to serve any individualized government interest, as nothing about Petitioner's personal circumstances supports detention; and

e. It produces an outcome—detention of a decades-long resident with zero law violations—that no reasonable application of the government's stated detention interests can justify.

58. While the Fifth Circuit has not recognized a formal doctrine of "non-enforcement acquiescence" in the immigration detention context, the due process prohibition on arbitrary government action provides an independent basis for relief where the government's sudden reversal, after years of inaction and in the absence of any changed individual circumstances, bears no reasonable relationship to any legitimate governmental objective. See Lewis, 523 U.S. at 845–46.

59. This arbitrary detention, premised solely on a policy change and Petitioner's manner of entry 12 years ago rather than any current, individualized assessment, violates the Fifth Amendment's

due process guarantee.

E. As-Applied Constitutional Challenge

60. Even if §1225(b)(2)(A) could be constitutionally applied to some individuals in some circumstances, its application to Petitioner violates the Constitution.

61. Petitioner presents the precise scenario where mandatory detention without a hearing cannot be constitutionally sustained:

a. Long-term U.S. resident (12 years) with deep community and family ties;

b. Government engaged in 12 years of non-enforcement, during which Petitioner demonstrated zero flight risk or danger;

c. Proven track record of compliance with all applicable laws, eliminating any individualized flight risk or danger concern;

d. Indefinite detention with no timeline for completion of proceedings;

e.Strong case for relief from removal through Asylum and Cancellation of Removal under 8 U.S.C. § 1229b(b);

f. Severe, irreparable harm from continued detention; and

g. Detention based solely on a policy change, not individual facts.

62. The Fifth Circuit in Buenrostro-Mendez acknowledged that constitutional concerns about §1225(b)(2)(A) were "wholly speculative" at the time. Slip op. at 21.

63. Petitioner's case makes these concerns concrete, not speculative. This is precisely the type of as-applied challenge the Fifth Circuit did not address and could not foreclose.

64. For all these reasons, Petitioner's continued detention violates the Fifth Amendment's guarantee of due process and equal protection.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Declare that Petitioner's continued detention violates the Fifth Amendment to the United States Constitution;

b. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from custody, subject to reasonable conditions of supervision including GPS monitoring, regular ICE check-ins, surrender of travel documents, and/or reasonable bond;

c. Alternatively, order Respondents to provide Petitioner with an individualized hearing before a neutral decision-maker within seven (7) days, at which Petitioner may demonstrate he is neither a flight risk nor a danger to the community, and at which the decision-maker has authority to order release on bond or conditions of supervision;

d. Enjoin Respondents from continuing to detain Petitioner in violation of his constitutional rights;

e. Order a stay of removal proceedings pending resolution of this petition;

f. Award costs and attorney's fees pursuant to 28 U.S.C. §2412 and other applicable law; and

g. Grant such other and further relief as the Court deems just and proper.

VI. VERIFICATION

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

Respectfully submitted,
/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner
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CERTIFICATE OF SERVICE

On July 2, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Rose Thompson, in his Official Capacity as Warden of the Karnes County Immigration Processing Center, at the Immigration and Customs Enforcement ("ICE") Karnes County Immigration Processing Center, located at 409 FM 1144, Karnes City, Texas 78118.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

July 2, 2026
Date

CERTIFICATE OF SERVICE

On July 2, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Sylvester M. Ortega, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations San Antonio Field Office, at (1) Office of the Field Office Director, Enforcement and Removal Operations, San Antonio Field Office, 1777 NE Loop 410, Fl. 15, San Antonio, Texas 78217.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

July 2, 2026
Date

CERTIFICATE OF SERVICE

On July 2, 2026, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Markwayne Mullin, in his Official Capacity as Secretary of U.S. Department of Homeland Security, at (1) Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

July 2, 2026
Date

CERTIFICATE OF SERVICE

On July 2, 2026, Counsel for Plaintiff served a copy of the attached Petition via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Todd Blanche, in his Official Capacity as Acting Attorney General of the United States, at usatxw.civil.immigration.notices@usdoj.gov.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

July 2, 2026
Date