IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Yajaira Gabriela Castro Carias, *Petitioner,* V. Warden, ERO El Paso Camp East Montana; Bret Bradford, Field Office Director; Markwayne Mullin Secretary, U.S. Department of Homeland Security; Todd Lyons, Acting Ice Director, Todd Blanche, Acting Attorney General, And DEPARTMENT OF HOMELAND SECURITY *IN THEIR OFFICIAL CAPACITIES* *Respondents.*	§ § § § § § § § § § § § § § § §	Case No. 3:26-CV-02180-LS VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND DECLARTORY AND INJUCTIVE RELIEF FOR AN ORDER TO SHOW CAUSE

<u>PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS</u>

TO THE HONORABLE COURT:

Petitioner Yajaira Gabriela Castro Carias, through undersigned counsel, respectfully submits this Reply to Respondents' Response to the Petition for Writ of Habeas Corpus. Respondents' Response does not eliminate this Court's jurisdiction under 28 U.S.C. § 2241 to determine whether Petitioner's present physical confinement complies with the Constitution. Nor does the Government's reliance on 8 U.S.C. § 1225(b)(2)(A) resolve the independent constitutional question presented by Petitioner's continued detention without an individualized custody determination.

I. BUENROSTRO-MENDEZ DOES NOT ELIMINATE THIS COURT'S AUTHORITY TO CONSIDER THE CONSTITUTIONALITY OF PETITIONER'S DETENTION

Respondents principally rely upon Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), to argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Petitioner recognizes that Buenrostro-Mendez constitutes binding Fifth Circuit authority concerning the statutory classification of certain noncitizens as applicants for admission under § 1225. Petitioner does not ask this Court to disregard binding circuit precedent. But the statutory classification of Petitioner does not end the constitutional inquiry.

Jennings v. Rodriguez, 583 U.S. 281 (2018), addressed the interpretation of the immigration detention statutes while declining to resolve the constitutional challenges to detention without adequate procedural protections. Thus, a determination that § 1225(b)(2)(A) authorizes detention as a statutory matter does not itself establish that every application of that detention authority, regardless of its circumstances or duration, necessarily satisfies the Fifth Amendment.

Petitioner's claim is therefore not that this Court should rewrite § 1225. Rather, Petitioner invokes the traditional function of habeas corpus: determining whether her present physical confinement is lawful under federal law and the Constitution.

II. THE PENDING EN BANC PROCEEDINGS IN SOSNAVA RODRIGUEZ DO NOT REQUIRE DISMISSAL OF THIS PETITION

Respondents alternatively ask this Court to deny the Petition or hold it in abeyance based upon the Fifth Circuit's proceedings in Sosnava Rodriguez v. Ortega. Respondents' own Response, however, acknowledges an important limitation on that argument: the Fifth Circuit's stay does not prevent this Court from adjudicating pending habeas petitions or entering final judgment. Respondents state that the Rodriguez stay instead requires that relief implicating the issues before the Fifth Circuit be stayed pending the en banc disposition.

Accordingly, the existence of the Rodriguez proceedings does not establish that Petitioner's case should be dismissed. To the extent the Court concludes that Rodriguez affects the immediate execution of particular relief, the appropriate course would be to preserve Petitioner's claims pending the Fifth Circuit's en banc determination rather than dismiss them on the merits.

This distinction is significant. Petitioner remains physically confined while the constitutional issue remains under active consideration by the Fifth Circuit. Dismissal would unnecessarily extinguish her pending habeas action when controlling appellate proceedings addressing the constitutional question have not yet concluded.

III. PETITIONER'S CONSTITUTIONAL CLAIM IS NOT EXTINGUISHED MERELY BECAUSE § 1225(b)(2)(A) USES MANDATORY LANGUAGE

Respondents argue that because § 1225(b)(2)(A) mandates detention, Petitioner's dangerousness and flight risk are irrelevant and no individualized custody determination is constitutionally required. That argument improperly treats statutory authorization as the end of the constitutional inquiry.

Congressional authorization of civil detention remains subject to constitutional limitations. Immigration detention is civil rather than punitive and must remain reasonably related to legitimate immigration purposes. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Petitioner has substantial liberty interests at stake. She has been physically present in the United States since 2019. Her prior immigration proceedings were reopened after an in absentia removal

order, and those proceedings were subsequently dismissed by an Immigration Judge on March 11, 2024. She also has a pending Form I-130 petition.

Petitioner further alleged that she has worked consistently, complied with immigration requirements, has never been charged with or convicted of a crime, poses no danger to the community, and presents no risk of flight. These circumstances do not independently create a statutory right to bond under § 1225. They are nevertheless relevant to Petitioner's constitutional contention that continued civil confinement without any meaningful individualized custody review implicates the Fifth Amendment.

Respondents' position would effectively mean that once § 1225(b)(2)(A) applies, constitutional review of the necessity and continued justification for physical confinement disappears entirely. Petitioner respectfully submits that the Constitution does not become irrelevant merely because Congress has authorized detention.

IV. DEMORE DOES NOT ESTABLISH THAT ALL DETENTION PENDING REMOVAL PROCEEDINGS IS CONSTITUTIONAL REGARDLESS OF ITS CIRCUMSTANCES

Respondents rely heavily upon Demore v. Kim, 538 U.S. 510 (2003), for the proposition that detention during removal proceedings is constitutionally permissible. Demore does not establish an unlimited rule that detention pending immigration proceedings is immune from constitutional review.

The Supreme Court considered detention under a different statutory provision, § 1226(c), and evaluated detention in the context of removal proceedings having a definite conclusion. The constitutional question presented here concerns whether the Government may continue depriving this Petitioner of physical liberty without any individualized determination concerning the justification for that confinement.

Petitioner does not contend that the Government lacks legitimate interests in enforcing the immigration laws or ensuring appearances in removal proceedings. Rather, she maintains that those legitimate interests do not automatically answer whether continued civil detention without individualized review satisfies due process in her particular circumstances.

V. RESPONDENTS' EXHAUSTION ARGUMENT IS INTERNALLY INCONSISTENT AND SHOULD BE REJECTED

Respondents additionally contend that Petitioner must exhaust administrative remedies before seeking habeas relief. That argument is inconsistent with Respondents' principal position. Respondents repeatedly maintain that Petitioner is detained pursuant to § 1225(b)(2)(A), that detention under that provision is mandatory, and that Immigration Judges lack authority to grant bond to individuals within that statutory category.

The Government therefore cannot persuasively argue both that the Immigration Judge lacks authority to provide the individualized bond determination Petitioner seeks and that

Petitioner must obtain that same relief through the administrative process before invoking habeas jurisdiction. Requiring exhaustion of a procedure that Respondents contend cannot provide the requested relief would serve no meaningful purpose.

More fundamentally, Petitioner is not asking this Court to review the merits of her removal proceedings, adjudicate her pending I-130 petition, or substitute its judgment for an Immigration Judge concerning discretionary immigration relief. Petitioner challenges her present physical confinement and the constitutional sufficiency of the procedures accompanying that confinement. Those claims lie at the historic core of habeas corpus.

Petitioner therefore respectfully submits that dismissal for failure to exhaust is unwarranted, particularly where the administrative tribunal identified by Respondents lacks authority, under Respondents' own interpretation of the governing statute, to grant the custody determination Petitioner seeks.

VI. PETITIONER'S HABEAS CLAIM REMAINS COGNIZABLE REGARDLESS OF THE GOVERNMENT'S ARGUMENT CONCERNING THE APA

Respondents separately argue that claims arising under the Administrative Procedure Act should not proceed as part of a habeas action. That argument does not dispose of Petitioner's central claim. Petitioner's primary request is habeas relief from allegedly unlawful physical confinement pursuant to 28 U.S.C. § 2241. Her constitutional challenge to present detention exists independently of any APA theory.

Accordingly, even if the Court determines that any separately pleaded APA claim must be severed or dismissed without prejudice, such a determination provides no basis for dismissal of Petitioner's § 2241 challenge to the legality of her present physical custody.

Petitioner respectfully requests that the Court adjudicate the habeas and constitutional claims independently of any determination concerning ancillary statutory causes of action.

VII. PETITIONER DOES NOT SEEK REVIEW OF THE MERITS OF HER REMOVAL PROCEEDINGS

Respondents devote portions of their Response to the distinction between habeas jurisdiction and review of immigration proceedings. Petitioner agrees that this Court is not sitting as an immigration appellate tribunal, but that is not the relief requested.

Petitioner does not ask this Court to determine whether she is removable, adjudicate her eligibility for immigration benefits, review the merits of her pending immigration proceedings, or stay a final order of removal. She asks this Court to determine whether her present physical confinement is lawful.

The distinction is critical. Habeas jurisdiction under 28 U.S.C. § 2241 traditionally permits federal courts to review the legal and constitutional authority for executive detention. Petitioner's challenge falls within that function.

VIII. PETITIONER'S INDIVIDUAL CIRCUMSTANCES SUPPORT CONSTITUTIONAL REVIEW

This case should not be reduced to the abstract proposition that every individual classified under § 1225(b)(2)(A) may be detained without meaningful constitutional review. Petitioner entered the United States in 2019. Her earlier removal proceedings were reopened, and the Immigration Judge ultimately dismissed those proceedings without prejudice in March 2024. She remained in the United States thereafter and has a pending family-based immigration petition.

Petitioner was subsequently taken back into immigration custody in July 2026 and placed into new removal proceedings. Petitioner has no criminal convictions. She maintains substantial ties to the United States and asserts that she is neither a danger to the community nor a flight risk. Petitioner does not contend that these facts automatically entitle her to release. She contends that they demonstrate why individualized constitutional review matters when the Government deprives a person of physical liberty through civil detention.

The Government's categorical statutory argument provides no individualized determination that Petitioner's confinement is necessary to protect the community, ensure her appearance, or accomplish another legitimate detention objective.

IX. AT MINIMUM, PETITIONER'S CONSTITUTIONAL CLAIM SHOULD BE PRESERVED PENDING THE FIFTH CIRCUIT'S EN BANC DECISION

If this Court determines that the Fifth Circuit's pending en banc proceedings in Rodriguez prevent immediate execution of habeas relief, Petitioner respectfully submits that dismissal is neither necessary nor appropriate. The Government itself acknowledges that the Fifth Circuit's stay does not prevent district courts from adjudicating habeas petitions or entering final judgments.

Accordingly, this Court may adjudicate the Petition consistent with controlling authority. Alternatively, if the Court concludes that the forthcoming en banc decision will directly control Petitioner's constitutional claims, the Court may hold the matter in abeyance pending that decision.

Either course is preferable to dismissal of Petitioner's constitutional claims while the precise constitutional question is under active en banc consideration.

X. CONCLUSION

Respondents have established their position that Buenrostro-Mendez presently controls the statutory interpretation of § 1225(b)(2)(A) within the Fifth Circuit. They have not established, however, that this Court lacks habeas jurisdiction to examine the constitutionality of Petitioner's present physical confinement, that statutory authorization categorically eliminates

constitutional limitations on civil detention, or that Petitioner must exhaust an administrative remedy that Respondents themselves contend is unavailable to her.

WHEREFORE, Petitioner respectfully requests that this Court reject Respondents' request for dismissal and grant the Petition for Writ of Habeas Corpus; order Petitioner's release under appropriate conditions or, alternatively, order an individualized custody hearing consistent with constitutional requirements. In the further alternative, if the Court determines that the pending en banc proceedings in Sosnava Rodriguez presently prevent execution of such relief, Petitioner respectfully requests that the Court preserve the Petition and hold the matter in abeyance pending the Fifth Circuit's en banc disposition rather than dismissing Petitioner's constitutional claims, and grant such other and further relief as the Court deems just and proper.

Respectfully submitted this September 2, 2026

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