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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JEHNSON ANTAWN ARENAS-RIVERA, *Petitioner*, v. **WARDEN,** El Paso Processing Center; **MARKWAYNE MULLIN,** Secretary of the U.S. Department of Homeland Security; and **TODD BLANCHE,** Attorney General of the United States, in their official capacities, *Respondents*.	Case No. 3:26-cv-02194 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Jehnson Antawn Arenas-Rivera, is in the physical custody of Respondents at El Paso Processing Center in El Paso, Texas. Petitioner was first detained and released in October 2021 under DHS's discretionary detention authority under 8 U.S.C. § 1226. Almost five years later, in August 2026, the Department of Homeland Security (DHS) arrested him outside his apartment complex as he was leaving his home to go to work. He has remained detained since that date.

2. On February 6, 2026, the Fifth Circuit Court of Appeals held in *Buenrostro-Mendez v. Bondi* that §1225(b)'s mandatory detention provisions may be applied to noncitizens who entered without inspection, regardless of whether they were apprehended at the border or years later in the interior. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). But *Buenrostro-Mendez* addressed only statutory construction—it did not examine any constitutional challenge to the mandatory detention provisions. *Id. Buenrostro-Mendez* therefore does not foreclose as-applied constitutional challenges.

3. The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004) (citing U.S. Const., Art. I, § 9, cl. 2). This includes immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001). The petitioner seeking habeas relief must demonstrate he is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286, 61 S.Ct. 574, 85 L.Ed. 830 (1941).

4. When the application of 8 U.S.C. § 1225(b)(2) is examined in the context of Petitioner's specific circumstances—his almost five years at liberty in the United States, his stable

employment, his family ties, and his complete absence of criminal history or flight risk—it is clear that his detention violates the Fifth Amendment's guarantee of due process. District courts across the nation, including numerous courts within this circuit and district, have found that such mandatory detention violates the Due Process Clause when applied to individuals like Petitioner. *See, e.g., Hernandez-Fernandez v. Lyon*s, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7 (W.D. Tex. Oct. 21, 2025); *Hassen v. Noem*, No. EP-26-CV-00048-DB (W.D. Tex. Feb. 9, 2026); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668 (W.D. Tex. 2025).

5. Because Petitioner's detention violates the Fifth Amendment, this Court should grant the petition for a writ of habeas corpus and order Petitioner's immediate release. Immediate release is the appropriate remedy because the systematic transformation of the immigration court from a neutral adjudicatory body into an instrument of the administration's enforcement agenda has rendered it structurally incapable of providing Petitioner with the impartial tribunal and individualized assessment that a custody redetermination and due process requires. ***See* Exh. H, Supplemental Briefing.**

6. In the alternative, if the Court finds that some form of custody determination is warranted, the Court should conduct its own bail hearing. At a minimum, if the Court declines to order release or conduct its own hearing, it should order a bond hearing before an immigration judge with explicit procedural safeguards and retain jurisdiction to review the determination to ensure compliance with due process.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

10. Petitioner challenges the legality of his detention as a violation of constitutional law. These claims fall squarely within the habeas jurisdiction of federal district courts. None of the jurisdiction-stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g), and § 1252(b)(9) apply. The Court "retain[s] jurisdiction to review [a noncitizen's] detention insofar as that detention presents constitutional issues, such as those raised in a habeas petition." *Oyelude v. Chertoff*, 125 F. App'x 543, 546 (5th Cir. 2005). The constitutionality of Petitioner's detention is precisely the question presented here. *See also Hernandez-Fernandez v. Lyons*, 2025 WL 2976923, at *2-6 (W.D. Tex. Oct. 21, 2025) (holding that none of jurisdiction-stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) apply.); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments); *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *2-4 (W.D. Tex. Oct. 16, 2025) (same).

VENUE

11. Venue is proper with this Court because Petitioner is detained at El Paso Processing Center in El Paso, Texas, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999). It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the Fifth Circuit's recent decision holding that anyone who has entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

15. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile

exercise because the agency does not have jurisdiction to review" constitutional claims).

PARTIES

16. Petitioner, Jehnson Antawn Arenas-Rivera, is a citizen of Venezuela. He is currently detained at the El Paso Processing Center in El Paso, Texas. He is in the custody, and under the direct control, of Respondents and their agents.

17. Respondent Warden of the El Paso Processing Center has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

18. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Mullin is a legal custodian of Petitioner.

19. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

20. Petitioner is a 23-year-old native and citizen of Venezuela. He entered the United States without inspection near Del Rio, Texas on October 8, 2021. **Exh. A, Form I-862 Notice to Appear.** That same day, he was encountered by DHS officials and taken into custody.

The next day, he was served with a Notice to Appear ("NTA") charging him with inadmissibility under INA 212(a)(6)(A)(i). **Id.** On October 9, 2021, he was also served with an Order of Release on Recognizance issued pursuant to 8 USC 1226(a) and was released from custody. **Exh. B, Form I-220A, Order of Release on Recognizance.**

21. On January 24, 2023, Petitioner filed his I-589, Application for Asylum and for Withholding of Removal, with his father, who he was in removal proceedings with. **Exh. C, Proof of I-589 Filing.** Petitioner proceeded to obtain work authorization and a driver's license. **Exh. E, Employment Authorization Document.** Further, he applied for TPS, Temporary Protected Status, which was granted on October 2, 2024 and received an I-94, Arrival/Departure Record. **Exh. D, Parole Approval Notice with I-94 form, or Arrival/Departure Record admit until April 2, 2025.** He had valid parole status from October 2, 2024 to April 2, 2025. **Id.** Petitioner complied with all conditions of his release and appeared at his Immigration Hearings as scheduled. He was scheduled for a final merits hearing on August 25, 2027. As a result of his detention, he is now awaiting a new hearing date.

22. Prior to his detention, Petitioner resided in El Paso, Texas with his partner, with whom he is expecting a baby. Petitioner has no criminal history and he has maintained stable employment at [redacted], which has confirmed that they are holding his position and is awaiting his return to work. **Exh. F, Employment Confirmation Letter.** Additionally, Petitioner has extensive family ties in the U.S., including his father, who has a pending asylum application, as well as an uncle, aunt, and cousins who have each been granted asylum.

23. Petitioner is now detained at El Paso Processing Center in El Paso, Texas. **Exh. G, ICE Detainee Locator Results.** Petitioner has remained continuously detained since August 1, 2026, despite having no criminal convictions, no disciplinary infractions while in custody, and no individualized finding that his detention is necessary to serve a legitimate governmental purpose.

24. Petitioner's ongoing detention—imposed without any opportunity for an individualized custody determination and based solely on the Government's categorical application of § 1225(b)(2) to all noncitizens who entered without inspection—has resulted in prolonged and potentially indefinite civil confinement. His detention under restrictive, penal-like conditions, despite his years at liberty, significant ties to the U.S., and lack of any criminal history, inflicts serious liberty harms and raises grave constitutional concerns.

25. His mandatory detention leaves him with no meaningful mechanism to seek release or to obtain a neutral review of whether his continued confinement is justified. Absent judicial intervention, Petitioner faces continued detention through his removal proceedings, without an individualized assessment or procedural safeguards. It is Petitioner's belief that he will not receive a fair and impartial custody re-determination unless this Court intervenes and provides appropriate relief. ***See* Exh. H, Supplemental Briefing.**

LEGAL FRAMEWORK

26. On February 6, 2026, the Fifth Circuit Court of Appeals held in *Buenrostro-Mendez v. Bondi* that §1225(b)'s mandatory detention provisions may be applied to noncitizens who entered without inspection, regardless of whether they were apprehended at the border or years later in the interior. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330

(5th Cir. Feb. 6, 2026). But *Buenrostro-Mendez* addressed only statutory construction—it did not examine any constitutional challenge to § 1225(b)(2). *Id.*

THE APPLICATION OF 1225(b)(2) TO PETITIONER VIOLATES DUE PROCESS

27. "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, 695 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Supreme Court has repeatedly affirmed that "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987); *see also Foucha*, 504 U.S. at 80, 112 S.Ct. 1780 ("We have always been careful not to minimize the importance and fundamental nature of the individual's right to liberty."). For this reason, "civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections." *Addington v. Texas*, 441 U.S. 418, 425 (emphasis added).

28. While "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process…the fact that some detention is permissible does not change the fact that a detainee suffers significant liberty deprivations." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) (citing *Demore,* 538 U.S. at 522). "Moreover, the government's exercise of its power to detain immigrants pending removal 'is subject to important constitutional limitations.'" *Id.* at 28-29 (citing *Zadvydas*, 533 U.S. at 695). "That is because due process "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 29 (citing *Zadvydas*, 533 U.S. at 693 and *Mathews v. Diaz,* 426 U.S. 67, 77 (1976)

(explaining that due process "protects every [person]...Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection")).

29. In the immigration detention context, due process requires that immigration detention "'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas*, 533 U.S. at 690). Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm, and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91.

30. "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 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (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, 96 S.Ct. 893.

31. Across the country, District Courts– including all four Texas District Courts– have repeatedly sustained as-applied due process challenges to § 1225(b)(2) on facts closely analogous to Petitioner's. In Texas alone, these include:[1] ***Vieira v. De Anda-Ybarra***, No.

[1] Numerous District Courts in other states have also sustained as-applied due process challenges to § 1225(b)(2) in cases involving long-term residents. *See, e.g.*, *Diaz v. Kaiser*, No. 25-CV-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (finding detention without bond violates due process and collecting California cases reaching

EP-25-CV-00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025) **(Briones, D.)** ("In sum, Section 1225(b)(2) as applied to Petitioner violates his Fifth Amendment Due Process rights."); ***Martinez v. Noem***, No. EP-25-CV-430-KC, 2025 WL 2965859, at *3 (W.D. Tex. Oct. 21, 2025) **(Cardone, K.)** ("the Court does not reach the statutory interpretation question because, assuming without finding that the Government's new interpretation is correct, Gonzalez Martinez is entitled to due process and succeeds in his as-applied challenge."); ***Ortega-Aguirre v. Noem***, No. 4:25-CV-04332, 2025 WL 3684697, at *3 (S.D. Tex. Oct. 10, 2025) **(Bennet, A.)** ("Here, the Court finds that Petitioner is likely to prevail on the merits of his due process claim because he 'has been detained since August of 2025 without any individualized assessment of flight risk or dangerousness.'"); ***Cruz-Reyes v. Bondi***, 5:26-CV-60, 2026 WL 332315, at *3 (S.D. Tex. Feb. 3, 2026) **(Saldaña, D.)** ("The imposition of mandatory detention under § 1225(b)(2) on Mr. Cruz Reyes, a long-term resident who was arrested in the interior of the United States…violates the most basic principles of due process."); ***Cordova v. Noem***, No. 3:26-CV-97-K-BN, 2026 WL 218938, at *3 (N.D. Tex. Jan. 28, 2026) **(Kinkeade, E.)** ("the Court holds that denying Petitioner a bond hearing under § 1225(b)(2) deprives him of procedural due process protections under the Fifth Amendment."); ***Camacho-Gutierrez v. Thompson***, No. 5:25-CV-01876-MA, 2026 WL 195758, at *5 (W.D. Tex. Jan. 16, 2026) **(Alvarez, M.)** ("the Court finds that Petitioner's detention without any notice or an individualized assessment deprives her of the constitutional right to procedural due process"); ***Hernandez-Fernandez v. Lyons***, No. 5:25-CV-00773-JKP,

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the same result); *Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (adopting magistrate's finding that § 1225(b)(2) violated due process and ordering immediate release); *Duran Avalos v. Bondi*, No. C25-4063-LTS-KEM, 2025 WL 3530162, at *4 (N.D. Iowa Dec. 9, 2025) ("his continued detention without the opportunity to post bond violates his substantive due process rights"); *Sanchez Alvarez v. Noem*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025). A comprehensive accounting of such decisions would occupy multiple additional pages.

2025 WL 2976923, at *10 (W.D. Tex. Oct. 21, 2025) **(Pulliam, J.)** ("the Court finds that detaining him without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process."); ***Blanco v. Bondi***, No. 5-25-CV-01412-FB-RBF, 2025 WL 3908488, at *6 (W.D. Tex. Dec. 30, 2025), report and recommendation adopted sub nom. *Betancourt Blanco v. Bondi*, No. SA-25-CV-01412-FB, 2026 WL 78204 (W.D. Tex. Jan. 9, 2026) **(Biery, F.)** (finding that government's position "is troubling and stands in considerable tension with fundamental due process guarantees."); ***George v. Noem***, *No. 3:25-CV-2935-S-BW, 2025 WL 3852946, at *4 (N.D. Tex. Dec. 19, 2025), report and recommendation adopted, No. 3:25-CV-02935-S-BW, 2026 WL 30829 (N.D. Tex. Jan. 5, 2026)* **(Gren Scholer, K.)** ("detaining Villantes George without a bond hearing violates his Fifth Amendment rights.").

32. **Most notably, even after *Buenrostro-Mendez*, the Western District of Texas has continued to grant habeas relief on Due Process grounds.** *See, e.g., Hassen v. Noem*, No. EP-26-CV-00048-DB, at 4, n.1 (W.D. Tex. Feb. 9, 2026) (Briones, D.); *Aguila v. Warden,* EP-26-CV-241-KC at 3-4 (W.D. Tex. Feb. 9, 2026) (Cardone, K.); *Bonilla Chicas v. Warden*, 5:26-cv-00131, 2026 WL 539475 (S.D. Tex. Feb. 20, 2026) (Saldana, D.); *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211 (W.D. Tex. Feb. 20, 2026) (Pittman, R.); *Montufar v. Thompson*, No. 5:26-cv-00422-FB (W.D. Tex. Feb. 24, 2026) (Biery, F.); *Rodriguez v. Warden Randy Tate*, No. CV 4:26-650, 2026 WL 517983 (S.D. Tex. Feb. 25, 2026) (Hanks Jr., G.); *Campos-Perez v. Thompson*, No. 5:26-cv-00249-XR (W.D. Tex. Feb. 26, 2026) (Rodriguez, X.); *Alvarez-Rico v. Noem*, No. 4:26-CV-00729, 2026 WL 522322 (S.D. Tex. Feb. 25, 2026) (Ellison, K.); *Meliki v. Lyons*, No.

5:26-CV-0140-JKP, 2026 WL 690011 (W.D. Tex. Mar. 2, 2026) (Pulliam, J.); *Pruna v. Thompson*, No. 5:26-cv-00366-OLG (W.D. Tex. Mar. 4, 2026) (Garcia, O.); *Aldana-Barreira v. Bondi*, No. 1:26-cv-00436-DAE (W.D. Tex. Mar. 12, 2026) (Ezra, D.).

ALL THREE MATHEWS FACTORS WEIGH IN PETIONER'S FAVOR

33. First, "Respondents fail to contend with the liberty interests created by the fact that the Petitioner[ ] in this case [was] released on recognizance prior to the manifestation of this interpretation." *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *9 (W.D. Tex. Oct. 21, 2025) (citations omitted). Courts have held that once released from immigration custody, noncitizens acquire a "protectable liberty interest in remaining out of custody on bond." *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 686 (W.D. Tex. 2025) (citation omitted) (collecting cases). "Because he spent nearly [five years] at liberty in the United States, [Petitioner] possesses a cognizable interest in his freedom from detention." *Id.* This interest "deserves great weight and gravity." *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025) (citations omitted). *See also Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (Aliens "who have once passed through our gates, even illegally," are afforded the full panoply of procedural due process protections, and "may be expelled only after proceedings conforming to traditional standards of fairness.").

34. Second, the First Circuit examined at length the risk of erroneous deprivation in *Hernandez-Lara. See Hernandez-Lara v. Lyons,* 10 F.4th 19, 28-31 (1st Cir. 2021). There, the First Circuit concluded that bond hearings that placed the burden on the detained noncitizen inherently carried a high risk of error for five reasons: (1) detainees are not

provided counsel and often cannot obtain counsel; (2) detainees experience great difficulty obtaining evidence; (3) detainees often lack full proficiency in English; (4) immigration law and procedures and judge preferences are likely much better known to government representatives than to detainees; and (5) the inherent difficulty in proving a negative. *Id.* The Court explained that the case before it "evidences how the allocation of the burden of proof can affect the likelihood of such error. With a record of employment, family relations, a settled place in the community, and no arrests, Hernandez would seem to have been a good candidate for conditional release on bail." *Id.* at 31. Yet she was denied bond. The Court concluded that due process required that the burden be placed on the government in § 1226(a) bond proceedings.

35. If the risk of erroneous deprivation is already high in a standard § 1226(a) bond hearing — where the detainee at least has an opportunity to be heard — then the risk must be exponentially greater under § 1225(b)(2), which deprives Petitioner of any opportunity whatsoever to contest the reasonableness of his continued detention. "The risk lies in the automatic continued deprivation of liberty for a noncitizen who has already been determined to not be a flight risk nor a danger to the community, and has lived in the United States for a prolonged period of time, especially where there are no facts in the record to reflect material changes in Petitioner's dangerousness or flight risk." *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025). Accordingly, this factor strongly favors Petitioner and compels Court intervention that can actually address the risk of error.

36. On the final factor, "Respondents, of course, have a generalized interest in ensuring noncitizens appear for their removal hearings and do not pose a risk to the communities

in which they live." *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025) "But that interest, in this case, seems particularly diluted given Respondents' own decision to release Petitioner on his own recognizance once before."*Id.* Further, there have been no "material changes to Petitioner's actions in appearing for any immigration related matters, nor [has he] since acquired a criminal record to jeopardize the safety of others while released." *Id.* On the contrary, if anything, Petitioner's actions and circumstances *decreased* any possible flight risk concerns: he has built ties he did not have before, he dutifully complied with the conditions of release, he secured stable employment, fixed residence, has extensive family ties, is expecting a child with his partner and has a vested interest in presenting his asylum claim. To the extent the Government asserts an interest in avoiding "the incremental cost resulting from the increased number of hearings," that argument is unavailing: "such costs cannot be terribly burdensome, given Respondents' concession that the Government conducted them for decades until its reinterpretation of the law earlier this year." *Id.* (citations omitted). And of course, his release would save the government a significant financial expenditure incurred from Petitioner's detention. The third *Mathews* factor therefore weighs in Petitioner's favor.

37. Applied to Petitioner's circumstances, the *Mathews* analysis compels relief. Petitioner has resided in the United States for almost five years, is steadily employed, has extensive familial and community ties, and has no criminal history whatsoever. He has never failed to appear before any court or government agency. Under these circumstances, the Government cannot demonstrate that continued mandatory detention without any

individualized assessment serves its interests in preventing flight or protecting the community.

AVAILABLE REMEDIES

38. "Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). Petitioner submits that immediate release is the most appropriate remedy for the violations of the Fifth Amendment's right to due process. "The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to status quo ante, i.e., the last uncontested status which preceded the pending controversy." *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025).

39. "In recent months, courts across the country have ordered the release of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) **(given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing)**. (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025).

40. Courts across Texas have also ordered immediate release, even after *Buenrostro-Mendez,* on due process grounds. *See e.g. Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211 (W.D. Tex. Feb. 20, 2026); *Bonilla Chicas v. Warden*, 5:26-cv-00131, 2026 WL 539475 (S.D. Tex. Feb. 20, 2026); *Rodriguez v. Warden Randy Tate*, No. CV 4:26-650,

2026 WL 517983 (S.D. Tex. Feb. 25, 2026); *Campos-Perez v. Thompson*, No. 5:26-cv-00249-XR (W.D. Tex. Feb. 26, 2026); *Meliki v. Lyons*, No. 5:26-CV-0140-JKP, 2026 WL 690011 (W.D. Tex. Mar. 2, 2026); *Pruna v. Thompson*, No. 5:26-cv-00366-OLG (W.D. Tex. Mar. 4, 2026) (Garcia, O.); *Aldana-Barreira v. Bondi*, No. 1:26-cv-00436-DAE (W.D. Tex. Mar. 12, 2026) (Ezra, D.).

41. Petitioner respectfully urges this Court to consider the thoughtful reasoning of S.D. Tex. Judge Diana Saldaña, who has moved from ordering bond hearings to ordering immediate release as the appropriate remedy. *See Cruz-Reyes v. Bondi*, 5:26-CV-60, 2026 WL 332315 (S.D. Tex. Feb. 3, 2026). Judge Saldaña identified three factors supporting immediate release on due process grounds. First, she emphasized that the "opportunity for [an] initial [pre-deprivation] determination is imperative," reasoning that a post-deprivation hearing provides no genuine relief for an unjustified deprivation of liberty. *Id.* at 6 (citations omitted). Second, she recognized the significant human cost already borne by the petitioner and his family, including impaired ability to earn a living and support his school-age children. *Id.* Third, she noted that the petitioner had previously been released on his own recognizance based on a finding that he posed no flight risk or danger, and that there was "no evidence before the Court that circumstances have changed." *Id.* Each of these factors applies with equal force here.

42. In the alternative, if the Court determines that some custody determination is warranted, the Court should order a bond hearing, *but with additional safeguards*. **First**, the Government should bear the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or is a flight risk to "[reflect] the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share

the risk of error equally.'" *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (also noting that "as of 2020, the 'vast majority'—an 'overwhelming consensus'—of courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk"). This is also consistent with the Supreme Court's civil detention jurisprudence, where it has always required the government to bear the burden of proof. *Addington v. Texas*, 441 U.S. 418, 433 (1979) (holding that in civil commitment proceedings, the government's burden of proof must be "equal to or greater than the 'clear and convincing' standard" to meet due process guarantees.) **Second**, the Court should require the immigration judge to set forth with specificity the factual and legal bases for any danger or flight risk determination. **Third,** the Court should retain jurisdiction to review the immigration judge bond decision to ensure compliance with the court's order and due process. **Fourth**, the Court should prohibit the government from invoking the automatic stay provisions under 8 C.F.R. § 1003.19(i)(2) because courts have ruled that their application violates the procedural due process rights of noncitizens granted bond. *See, e.g., Gutierrez v. Thompson*, No. 4:25-4695, 2025 WL 3187521, at *8 (S.D. Tex. Nov. 14, 2025).

COUNT ONE
Violation of Fifth Amendment Right to Due Process

43. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

44. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the

Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

45. Petitioner has a fundamental interest in liberty and being free from official restraint.

46. The government's mandatory detention of Petitioner without the opportunity to request a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to Due Process pursuant to the Fifth Amendment.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the Due Process clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner, or, in the alternative, order a custody redetermination hearing in which the government bears the burden of showing that Petitioner is a flight risk or a danger to the community by clear and convincing evidence;

(5) Maintain jurisdiction over the Petitioner until the Respondents have properly complied with any Orders of this Court.

(6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Claudia I. Chavarria
Claudia I. Chavarria, Esq.

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Attorney for Petitioner

Dated: August 24, 2026

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

I represent Petitioner, Jehnson Antwan Arenas Rivera, 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 24th day of August, 2026.

/s/ Claudia Chavarria
Claudia Chavarria, Esq.
Attorney for Petitioner

CERTIFICATE OF SERVICE
Arenas-Rivera v. Warden
Case No 3:26-cv-02194

I hereby certify that on August 24, 2026, I mailed by United States Postal Service the Verified Petition for Writ of Habeas Corpus by certified mail to the following:

Stephanie Rico
Civil Process Clerk Office of the United States Attorney for the Western District of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

Warden
El Paso Service Processing Center
8915 Montana Avenue
El Paso, TX 79925

Secretary of Homeland Security Markwayne Mullin
2707 Martin Luther King Jr., Ave., SE
Washington, DC 20528-0485

Acting U.S. Attorney General Todd Blanche
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas court

/s/ Claudia Chavarria