UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Santiago ORTIZ MARTINEZ, et al., Petitioners, v. Cammilla WAMSLEY, et al., Respondents.	Case No. 2:25-cv-1822-TMC **EX PARTE EMERGENCY TO GRANT HABEAS PETITION OR TO ISSUE TEMPORARY RESTRAINING ORDER** Note on Motion Calendar: October 6, 2025

INTRODUCTION

Petitioners are five noncitizens who are members of the Bond Denial Class in *Rodriguez Vazquez v. Bostock*, No. 25-cv-05240-TMC (W.D. Wash.). Early last week, the Court in *Rodriguez Vazquez* entered final judgment, making clear that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention. *See Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ----, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). Yet in the days since then, Defendants in *Rodriguez Vazquez* have refused to comply with the Court's order. As a result—and despite repeated requests to *Rodriguez Vazquez* counsel to remedy this issue—Petitioners remain unlawfully detained. Defendants' flagrant and shocking disregard for this Court's authority warrants immediate and decisive action from this Court granting the habeas petition. *See* 28 U.S.C. § 2243 (providing

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district judges the authority to grant a habeas petition "forthwith," even in the absence of a government return). In the alternative, Petitioners move the Court to issue a temporary restraining order (TRO).

Besides the daily, unlawful detention each Petitioner faces—which alone warrants immediate action—urgency is acute for lead Petitioner Santiago Ortiz Martinez, whose upcoming Individual Calendar Hearing is set for October 9. His immigration counsel will be required to travel from Alaska for this hearing. As a result, Petitioners respectfully request a ruling by the end of the day on October 7. While Petitioners understand this requested timeline is short, this emergency motion is necessitated solely by the Respondents' direct and ongoing defiance of this Court's order.

STATEMENT OF FACTS

As described in Petitioners' memorandum in support of their petition for writ of habeas corpus, Petitioners are noncitizens who entered the United States without admission or parole, were not initially apprehended, and have since resided in the United States for years, and in most cases, decades. Following their recent arrests, Respondents subjected Petitioners to Respondents' new policy of considering all noncitizens who entered without admission or parole to be subject to the mandatory detention authority of 8 U.S.C. § 1225(b)(2)(A). In several of Petitioners' cases, a bond hearing was held, and the immigration judge (IJ) denied bond based on § 1225(b)(2)(A), while also providing an "alternative" bond amount that the Court would have set if it had jurisdiction. In two other cases, no hearing has yet been held, because the Petitioners are plainly subject to Defendants' mandatory detention policy. *See* Dkt. 3 at 5–8.[1]

[1] Along with their habeas petition and memorandum, Petitioners included supporting evidence that substantiates their factual claims and demonstrates their *Rodriguez Vazquez* class membership.

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Petitioners filed this habeas petition on September 19, 2025. Following that filing, on September 30, 2025, this Court issued a decision on the pending motions for partial summary judgment and motion to dismiss in *Rodriguez Vazquez*. As relevant here, the Court granted the motion for partial summary judgment as to the Bond Denial class members, which includes people without lawful status who entered without inspection, were not apprehended upon arrival, and are not subject to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. *See Rodriguez Vazquez v. Bostock*, 349 F.R.D. 333, 365 (W.D. Wash. 2025). Because the case included two separate classes, the Court also issued final judgment as to the Bond Denial Class under Federal Rule of Civil Procedure 54(b). *See* Judgment, *Rodriguez Vazquez v. Bostock*, No. 25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025), Dkt. 66.

Shortly after the entry of summary judgment, class counsel in *Rodriguez Vazquez* and counsel for Petitioners[2] contacted opposing counsel in *Rodriguez Vazquez*, requesting that they allow Petitioners with alternative bond orders (and other similarly-situated persons whom counsel identified) to post bond. *See* Ex. A (Oct. 1, 2025, email).[3] At a hearing that same day—October 1, 2025—Assistant Chief Immigration Judge Theresa Scala held a bond hearing for a *Rodriguez Vazquez* class member. *See* Ex. B (redacted Notice to Appear). The *Rodriguez Vazquez* court's summary judgment order was raised at the hearing, and IJ Scala refused to abide by it, saying that the agency decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) remained binding. IJ Scala accordingly denied bond. *See* Ex. C (redacted IJ bond order).

After learning of this hearing, counsel followed up with opposing counsel in *Rodriguez Vazquez*, requesting that they work to remedy their clients' unlawful conduct immediately, and

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[2] The same attorneys represent the classes in *Rodriguez Vazquez* and Petitioners.

[3] All citations to exhibits are to the Declaration of Aaron Korthuis that accompanies this motion.

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requesting a response by the end of the day. *See* Ex. D (Oct. 2, 2025, email). The following day, on October 3, 2025, opposing counsel stated that they were attempting to provide responses, but were "experiencing significant delays due to the shutdown." Ex. E (Oct. 3, 2025, email). Class counsel responded by noting that the immigration courts and detention facility continue to operate during the shutdown, and thus continue to ignore the *Rodriguez Vazquez* court's final judgment. Ex. F. (Oct. 3, 2025, email). In addition, on Friday, October 3, class counsel learned that other IJs at the Tacoma Immigration Court are also refusing to follow the summary judgment order in *Rodriguez Vazquez* and are denying bond to class members. *See, e.g.*, Ex. G (I-213); Ex. H (IJ bond order).

As of today, Monday, October 6, Defendants in *Rodriguez Vazquez* continue to disregard the declaratory judgment issued in *Rodriguez Vazquez*, including as to Petitioners. Earlier today, opposing counsel for Defendants in that case stated simply that they "continue to have internal discussions on this issue." Ex. I (Oct. 6, 2025) email. Following that email, and given that Defendants' counsel has yet to respond to Petitioners' request to make a means available to pay bond, two petitioners—Santiago Ortiz Martinez and Horacio Romero Leal—attempted to post bond based on their alternative bond orders. Immigration and Customs Enforcement quickly denied the requests for release. *See* Ex. J (denial of request for release on bond for Santiago Ortiz Martinez); Ex. K (same, for Horacio Romero Leal).

ARGUMENT

This motion should not be necessary. In "suits against government officials and departments, [courts] assume that they will comply with declaratory judgments." *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023). This is because declaratory judgments like the one in *Rodriguez Vazquez* have "the same effect as an injunction in fixing the parties' legal entitlements." *Florida ex rel. Bondi v. U.S. Dep't of Health*

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& Hum. Servs., 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). This understanding of declaratory judgments—and thus Respondents' required compliance with the declaratory judgment in *Rodriguez Vazquez*—is consistent with the decisions of many courts. *See, e.g.*, *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) ("[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court."), *abrogated on other grounds as recognized by*, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 688 (2024); *Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as "the functional equivalent of a writ of mandamus"); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) ("The government's decision to appeal this Court's ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal."), *rev'd on other grounds*, 184 F.3d 900 (D.C. Cir. 1999). Declaratory judgments are, in short, "a real judgment, not just a bit of friendly advice." *Florida ex. rel Bondi*, 780 F. Supp. 2d at 1316.

Even if Defendants inappropriately choose *not* to follow a declaratory judgment, the declaratory judgment in *Rodriguez Vazquez* completely resolves this habeas petition. Defendants' own documents reflect that Petitioners are class members, and the judgment in *Rodriguez Vazquez* precludes Defendants from re-arguing the merits. As a result, the Court should exercise its authority to grant the habeas petitions immediately. The Court is explicitly authorized to do so under 28 U.S.C. § 2243, which envisions that courts may grant a habeas petition "forthwith" and without a return from the custodian where the petition and accompanying materials demonstrate a clear entitlement to relief. Such a remedy is appropriate

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here, given that Petitioners are *Rodriguez Vazquez* class members, the merits there are resolved, and Defendants have refused to abide by the Court's final declaratory judgment.

However, if Court does not choose to simply grant the habeas petitions, then Petitioners satisfy all four requirements for a temporary restraining order. First, by virtue of the declaratory judgment in *Rodriguez Vazquez*, Petitioners can demonstrate a strong likelihood of success on the merits (indeed, the declaratory judgment shows they *will* succeed on the merits, making it unnecessary to analyze the remaining factors).

Second, irreparable harm is plainly established here and warrants this Court's swift and immediate action to order Petitioners' release on the alternative terms of the bond set forth by the IJs or to order bond hearings under § 1226(a) for those who have not received hearings. As this Court recognized in the *Rodriguez Vazquez* preliminary injunction decision, but for Defendants' policy, Petitioners would be free, living again with their families and communities. Petitioners "suffer[] . . . irreparable harm every day that [they] remain[] in custody" because the only reason they are incarcerated is the Tacoma Immigration Court's policy. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1262 (W.D. Wash. 2025) (quoting *Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018)). In fact, for many of the Petitioners (those with alternative bond orders), the harm here is not merely the *potential* to be released following a custody hearing; rather, they are now "needlessly detained" *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). But even for those who have not yet received hearings, a writ is necessary to provide them the chance to seek "conditional release." *Id.* In short, because Respondents "are denying

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[Petitioners] a hearing that would likely result in [their] release, [they have] established irreparable harm absent injunctive relief." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1262.[4]

Finally, as this Court has previously recognized, the last two TRO factors favor Petitioners. On the one hand, "[t]he harm to the government here is minimal." *Id.* After all, Petitioners challenge a practice that diverges from the "government's longstanding interpretation and enforcement of its immigration laws." *Id.* In addition, Petitioners have shown they are likely to succeed on the merits, and Defendants "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez*, 715 F.3d at 1145. Similarly, "it would not be equitable or in the public's interest to allow the [government] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in original) (citation omitted). Of course, by contrast, the harms Petitioners faces are far more significant, and include unlawful detention and separation from their families and communities. These facts tilt these final two factors strongly in Petitioners' favor. Dkt. 29 at 34–35; *see also Hernandez v. Session*, 872 F.3d 976, 996 (9th Cir. 2017) ("[T]he balance of hardships tips decidedly in plaintiffs' favor" when "[f]aced with such a conflict between financial concerns and preventable human suffering." (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983))).[5]

[4] The fact that Petitioners who have not yet received a bond hearing are likely to be released on bond is evident from their lack of recent criminal history (or any criminal history) as reflected in Ms. Rojas's I-213 and Mr. Lopez's declaration. Dkt. 4-5 (Rojas I-213); Dkt. 5 ¶ 8.

[5] Petitioners note that they previously submitted a proposed order with the habeas petition. *See* Dkt. 1-2. They include that same proposed order with this motion.

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Respectfully submitted this 6th day of October, 2025.

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I certify this motion contains 2,011 words in compliance with the Local Civil Rules.