

District Judge Tiffany M. Cartwright

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SANTIAGIO ORTIZ MARTINEZ,
JOSEFINA ROJAS, HORACIO ROMERO
LEAL, ADOLFO BARAJAS CANO,
PEPE LOPEZ LOPEZ,

Petitioners,

v.

CAMMILLA WAMSLEY, Field Office
Director of Enforcement and Removal
Operations, IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE); BRUCE SCOTT,
Warden, Northwest ICE Processing Center;
KRISTI NOEM, Secretary, U.S. Department of
Homeland Security; PAMELA BONDI, U.S.
Attorney General; U.S. DEPARTMENT OF
HOMELAND SECURITY; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 2:25-cv-01822-TMC

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for consideration on:
October 14, 2025

I. INTRODUCTION

Five separate Petitioners seek habeas relief from their mandatory immigration detentions. Petitioners previously filed a Temporary Restraining Order ("TRO") seeking emergency relief.

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 Yesterday, this Court granted the TRO as to three of the five Petitioners. This case is now moot
2 as to those three Petitioners—Santiago Ortiz Martinez, Horacio Romero Leal, and Adolfo Barajas
3 Cano—because, pursuant to this Court’s order issued October 7, 2025, they are now permitted to
4 post the bond amount found in the alternative by the Immigration Judge in their respective bond
5 hearings, which would result in their release.

6 U.S. Immigration and Customs Enforcement (“ICE”) detains the remaining two
7 Petitioners—Josefina Rojas and Pepe Lopez Lopez—pursuant to 8 U.S.C. § 1225(b). An
8 Immigration Judge recently denied Petitioner Lopez Lopez’s request for bond due to lack of
9 jurisdiction after determining that he is subject to mandatory detention. Petitioner Josefina Rojas
10 has not yet requested a bond hearing.

11 Regarding these remaining two Petitioners, Federal Respondents acknowledge that this
12 Court granted summary judgment and found that detention pursuant to 8 U.S.C. § 1225(b)(2) of
13 the defined class in *Rodriguez Vasquez v. Bostock* is unlawful. *Rodriguez v. Bostock*, No. 3:25-
14 cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). For the reasons set forth in
15 their briefing in that case, Federal Respondents do not agree with this decision and are still
16 weighing their options on how to proceed.

17 Federal Respondents do not, however, object to Lopez Lopez being considered as a
18 member of the Bond Denial Class² for the purposes of this litigation. As a class member, the
19 appropriate relief would be for Lopez Lopez to have a bond redetermination hearing in the
20 immigration court pursuant to 8 U.S.C. § 1226(a). Upon request of a bond hearing, Petitioner

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23 ² “Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who
24 (1) have entered or will enter the United States without inspection, (2) are not apprehended upon arrival, (3) are not
or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is
scheduled for or requests a bond hearing.” *Rodriguez*, 2025 WL 2782499, at *6.

1 Rojas would also meet the denial class definition, after which the appropriate relief for Rojas
2 would be the same as for Lopez Lopez – a bond redetermination hearing in immigration court.

3 II. BACKGROUND

4 A. 8 U.S.C. § 1225(b)

5 While acknowledging the Court’s decision in *Rodriguez Vasquez*, Federal Respondents
6 continue to believe Petitioners are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b).
7 *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb. Sept. 30, 2025)
8 (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*, --- F. Supp. 3d
9 ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same). Aliens who are apprehended shortly
10 after illegally crossing the border and who are determined to be inadmissible due to lacking a visa
11 or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may be removed pursuant to an expedited
12 removal order unless they express an intention to apply for asylum or a fear of persecution in their
13 home country. 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of these provisions is to
14 expedite the removal from the United States of aliens who indisputably have no authorization to
15 be admitted to the United States, while providing an opportunity for such an alien who claims
16 asylum to have the merits of his or her claim promptly assessed by officers with full professional
17 training in adjudicating asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d Sess. 209
18 (1996).

19 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers aliens
20 initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
21 documentation, and certain other aliens designated by the Attorney General in her discretion.
22 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
23 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
24 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

1 Congress has determined that all aliens subject to Section 1225(b) are subject to
2 mandatory detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2), the
3 sole means of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian
4 reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

5 Further, several provisions at 8 U.S.C. § 1252 preclude review. First, 8 U.S.C. § 1252(g)
6 bars review of Petitioners’ claims because they arise from the government’s decision to
7 commence removal proceedings. Second, 8 U.S.C. § 1252(b)(9) bars the Court from hearing
8 Petitioners’ claims because their claims challenge the decision and action to detain them, which
9 arises from the government’s decision to commence removal proceedings, thus an “action taken
10 . . . to remove an alien from the United States.” Third and lastly, 8 U.S.C. § 1252(e)(3) applies
11 and limits “[j]udicial review of determinations under section 1225(b) of this title and its
12 implementation.” The plain language of the statute precludes judicial review for aliens determined
13 to be detained pursuant to Section 1225(b)(2) and applies to a “determination under section
14 1225(b)” and to its implementation.

15 **B. Detained vs. Non-Detained Docket**

16 To facilitate the flow and ease of immigration dockets, the Executive Office for
17 Immigration Review (“EOIR”) may administratively, or clerically, transfer a case between
18 Immigration Courts given a variety of circumstances. Memorandum from U.S. Dep’t of Just.,
19 Add. to Policy Memorandum 25-30 (May 9, 2025), [https://www.justice.gov/eoir/media/
20 1399771/dl?inline](https://www.justice.gov/eoir/media/1399771/dl?inline) (last visited October 8, 2025). Immigration Courts have one docket for non-
21 detained immigrants and another for detained immigrants. Memorandum from U.S. Dep’t of Just.,
22 Policy Memorandum 25-30 (April 25, 2025), [https://www.justice.gov/eoir/media/1398021/
23 dl?inline](https://www.justice.gov/eoir/media/1398021/dl?inline) (last visited October 8, 2025). Because the immigration system prioritizes the hearing
24 and adjudication of detained cases in addition to there simply being less individuals on the

1 detained docket rather than the non-detained docket, the detained docket moves much faster. *Id.*

2 **C. Petitioner Santiago Ortiz Martinez**

3 Ortiz Martinez is a native and citizen of Mexico who entered the United States without
4 inspection at an unknown location on an unknown date. Declaration of Jamie Burns (“Burns
5 Decl.”), ¶¶ 3-4. Ortiz Martinez came to the attention of ICE Anchorage in November 2024. *Id.*
6 ¶ 5. On August 11, 2025, ICE agents encountered Ortiz Martinez, detained him, and transferred
7 him to detention at Northwest ICE Processing Center (“NWIPC”), where he was later issued a
8 Notice to Appear that same day. *Id.* ¶ 6. Ortiz Martinez was scheduled for a hearing before an
9 Immigration Judge on his application for relief from removal on October 9, 2025. *Id.* ¶ 8.

10 Yesterday, the Court ordered the Federal Respondents to allow his release upon payment
11 of the bond amount found in the alternate order by the Immigration Judge at his bond hearing.
12 Dkt. 18. On October 8, 2025, Ortiz Martinez was released from custody after posting bond. Burns
13 Decl., ¶ 9. Upon his release, his October 9, 2025, hearing will be cancelled and his case transferred
14 to the non-detained docket, which will result in his new hearing date being set much farther out
15 in time—likely years. Memorandum from U.S. Dep’t of Just., Policy Memorandum 25-30
16 (April 25, 2025), <https://www.justice.gov/eoir/media/1398021/dl?inline> (last visited October 8,
17 2025).

18 **D. Petitioner Horacio Romero Leal**

19 Romero Leal is a native and citizen of Mexico who entered the United States without
20 inspection at an unknown location on an unknown date. Burns Decl., ¶¶ 17-18. On June 12, 2018,
21 ICE agents encountered Romero Leal in California, issued him a Notice to Appear, and released
22 him from custody. *Id.* ¶¶ 19-20. Romero Leal was detained on April 28, 2025. *Id.* ¶ 21. Romero
23 Leal requested a custody redetermination hearing on June 18, 2025. *Id.* ¶ 22. On June 27, 2025,
24 the Immigration Judge found no jurisdiction to grant bond. *Id.* Romero Leal timely filed an appeal

1 with the Board of Immigration Appeals, which remains pending. *Id.* Romero Leal had a final
2 immigration hearing on September 5, 2025, where the Immigration Judge denied all relief and
3 ordered removal from the United States. *Id.* ¶ 23. Romero Leal timely filed an appeal with the
4 Board of Immigration Appeals, which remains pending. *Id.* On October 7, 2025, DHS filed a
5 Motion to Remand with the Board of Immigration Appeals seeking to remand bond proceedings
6 to Immigration Judge to reconsider bond in light of the fact that Romero Leal had subsequently
7 been denied relief and granted voluntary departure. *Id.* ¶ 24. Following the Court's order, Romero
8 Leal was released from custody after posting bond on October 8, 2025. *Id.* ¶ 25.

9 **E. Petitioner Adolfo Barajas Cano**

10 Barajas Cano is a native and citizen of Mexico who entered the United States without
11 inspection at an unknown location on an unknown date. Burns Decl., ¶¶ 26-27. On June 9, 2025,
12 ICE agents encountered and detained Barajas Cano, issued a Notice to Appear, and transferred
13 him to NWIPC. *Id.* ¶ 28. Barajas Cano requested a custody redetermination hearing on June 16,
14 2025. *Id.* ¶ 29. On June 23, 2025, the Immigration Judge found no jurisdiction to grant bond but
15 issued an alternate order in the amount of \$10,000. *Id.* Barajas Cano had a final immigration
16 hearing on July 23, 2025. *Id.* ¶ 30. On July 24, 2025, the Immigration Judge issued a written
17 decision denying all relief and ordering Barajas Cano removed from the United States. *Id.* Barajas
18 Cano timely filed an appeal with the Board of Immigration Appeals, which remains pending. *Id.*
19 On October 7, 2025, DHS filed a Motion to Remand with the Board of Immigration Appeals
20 seeking to remand bond proceedings to Immigration Judge to reconsider bond in light of the fact
21 that Barajas Cano had subsequently been ordered removed. *Id.* ¶ 31. Following the Court's order,
22 Barajas Cano was released from custody after posting bond on October 8, 2025. *Id.* ¶ 32.

23 **F. Petitioner Pepe Lopez Lopez**

24 Lopez Lopez is a native and citizen of Mexico who entered the United States without

1 inspection at an unknown location on an unknown date. Burns Decl., ¶¶ 33-34; Declaration of
2 Alixandria K. Morris (“Morris Decl.”), Ex. 1 (Form I-213). Lopez Lopez was previously granted
3 voluntary return to Mexico in 2005. *Id.*, ¶ 35. On September 11, 2025, ICE agents encountered
4 and detained Lopez Lopez, issued a Notice to Appear, and transferred him to NWIPC. *Id.* ¶¶ 35-
5 36; Morris Decl., Ex. 2 (Notice to Appear). Lopez Lopez is currently scheduled for a final hearing
6 before an Immigration Judge on his application for relief from removal on the detained docket
7 for October 29, 2025. *Id.* ¶ 37. Lopez Lopez requested a custody redetermination hearing on
8 October 3, 2025. *Id.* ¶ 38. On October 3, 2025, the Immigration Judge found no jurisdiction to
9 grant bond should jurisdiction be found. *Id.* Both parties reserved appeal of that decision. *Id.*
10 Today, on October 8, 2025, Lopez Lopez also had a bond hearing where the Immigration Judge
11 found no jurisdiction to grant bond but also issued an alternative bond of \$5,000 if there were
12 jurisdiction. Dkt. 19.

13 **G. Petitioner Josefina Rojas**

14 Rojas is a native and citizen of Mexico who entered the United States without inspection
15 at an unknown location on an unknown date. Burns Decl., ¶¶ 10-11; Morris Decl., Ex. 3 (Form I-
16 213). On August 13, 2025, ICE agents encountered Rojas, transferred her to detention at NWIPC;
17 and she was later issued a Notice to Appear that same day. *Id.* Decl., ¶ 13; Morris Decl., Ex. 4
18 (Notice to Appear). Rojas has a pending master calendar hearing set for October 14, 2025. *Id.*,
19 ¶ 15. To date, Federal Respondents could locate no evidence that she has requested a custody
20 redetermination hearing before the immigration court. *Id.* ¶ 16.

21 **III. ARGUMENT**

22 **A. Petitioners Santiago Ortiz Martinez, Horacio Romero Leal, and Adolfo Barajas**
23 **Cano**

24 Through this habeas action, Petitioners Santiago Ortiz Martinez, Horacio Romero Leal,

1 and Adolfo Barajas Cano sought a determination that they are detained pursuant to 8 U.S.C.
2 §1226(a) and sought bond hearings pursuant to that statute. Dkt. 1. Their claims are now moot
3 because the Court issued an order granting these three Petitioners' requests. Dkt. 18.

4 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of
5 the litigation." *Biodiversity Legal Found. v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002). "For
6 a habeas petition to continue to present a live controversy after the petitioner's release or
7 deportation . . . there must be some remaining 'collateral consequence' that may be redressed by
8 success on the petition." *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007). Here, the habeas
9 petition filed by these three Petitioners challenges their detention and does not allege any
10 additional consequence that can be addressed by this Court. Dkt. 1. Now that these three
11 Petitioners are permitted release upon payment of the bond amount found in the alternative by the
12 Immigration Judge in their respective bond hearings, their habeas petition is moot. *Abdala*,
13 488 F.3d at 1065 (describing habeas petitions that claim indefinite detention as fully resolved and
14 rendered moot by the petitioner's release from custody); *Babak v. ICE FOD*, 20-cv-212-RSM-
15 BAT, 2020 WL 1976798, at *1 (W.D. Wash. Mar. 31, 2020), R&R adopted by 2020 WL
16 1974335, at *1 (W.D. Wash. Apr. 24, 2020) (dismissing habeas petition as moot after ICE
17 released petitioner on supervision).

18 Accordingly, Federal Respondents respectfully submit that the Court should deny or
19 dismiss the habeas petition as to Petitioners Ortiz Martinez, Romero Leal, and Barajas Cano.
20 *Foster v. Carson*, 346 F.3d 742, 745 (9th Cir. 2003) (court lacks jurisdiction to hear claims that
21 are moot).

22 **B. Petitioner Pepe Lopez Lopez**

23 Earlier today, an Immigration Judge denied Lopez Lopez's request for bond due to lack
24 of jurisdiction after determining that he is subject to mandatory detention. Federal Respondents

1 do not object to Lopez Lopez being considered as a member of the Bond Denial Class for the
2 purposes of this litigation. If the Court were to grant the habeas petition with respect to Lopez
3 Lopez, the appropriate relief would be for Lopez Lopez to either have a bond redetermination
4 hearing in the immigration court pursuant to 8 U.S.C. § 1226(a) or to be released upon payment
5 of the bond amount found in the alternate order by the Immigration Judge in his respective bond
6 hearing.

7 **C. Petitioner Josefina Rojas**

8 As of now, Petitioner Rojas is a member of the *Rodriguez Vasquez* bond denial class and
9 therefore is not entitled to relief. To date, Federal Respondents could locate no evidence that she
10 has requested a bond hearing. In *Rodriguez Vasquez*, the Court defined the bond denial class as:
11 “All noncitizens without lawful status detained at the Northwest ICE Processing Center who
12 (1) have entered or will enter the United States without inspection, (2) are not apprehended upon
13 arrival, (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or
14 § 1231 at the time the noncitizen is scheduled for or requests a bond hearing.” *Rodriguez*,
15 2025 WL 2782499, at *6 (emphasis added). Because there is no evidence that Rojas has requested
16 a bond hearing, she is not a member of the *Rodriguez Vasquez* class and is therefore not entitled
17 to the relief she seeks. However, Federal Respondents acknowledge that if and when Rojas
18 properly requests a bond hearing, she will become a member of the class. Once that occurs, and
19 if the Court were to grant the habeas petition with respect to Rojas, the appropriate relief would
20 be for Rojas to have a bond hearing in the immigration court pursuant to 8 U.S.C. § 1226(a).

21 **IV. CONCLUSION**

22 The habeas petition should be denied as moot with respect to Petitioners Ortiz Martinez,
23 Romero Leal, and Barajas Cano, as the relief they sought has already been granted. If the Court
24 were to grant the habeas with respect to Petitioner Lopez Lopez, the appropriate relief would be

1 to either have a bond redetermination hearing in the immigration court pursuant to 8 U.S.C.
2 § 1226(a) or for him to be released upon payment of the bond amount found in the alternative by
3 the Immigration Judge. The habeas petition should be denied as to Rojas because she is not a
4 member of the *Rodriguez Vasquez* class at this time.

5 DATED this 8th day of October, 2025.

6 Respectfully submitted,

7 CHARLES NEIL FLOYD
8 United States Attorney

9 *s/ Alixandria K. Morris*

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17 *I certify that this memorandum contains 2,703 words, in*
18 *compliance with the Local Civil Rules.*