

District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANDRES CASTILLO AREDONDO,

Petitioner,

v.

TODD LYONS, *et al.*,

Respondents.

Case No. 2:25-cv-01838-TMC

RESPONDENTS' RETURN
MEMORANDUM

Noted for consideration on:
October 9, 2025

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Andres Castillo Aredondo pursuant to 8 U.S.C. § 1225(b). An immigration judge recently denied Aredondo's request for bond due to lack of jurisdiction after determining that he is subject to mandatory detention. Aredondo asserts that his classification under this detention authority violates due process. Pet., ¶ 13.

Respondents acknowledge that, after this habeas litigation was filed, this Court granted summary judgment and declared that detention pursuant to 8 U.S.C. § 1225(b)(2) of the defined class in *Rodriguez Vasquez v. Bostock* is unlawful. *Rodriguez v. Bostock*, No. 3:25-cv-05240-

1 TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). While the Government respectfully
2 disagrees with this decision and is still weighing its options on how to proceed in *Rodriguez*
3 *Vasquez*, Respondents do not object to Aredondo being considered as a member of the Bond Denial
4 Class¹ for the purposes of this litigation. As a class member, the appropriate relief would be for
5 Aredondo to have a bond redetermination hearing in the immigration court pursuant to 8 U.S.C.
6 § 1226(a).

7 Furthermore, this Court should deny Aredondo's claim that his arrest on August 9, 2025,
8 violated the Fourth Amendment. Pet., ¶ 13. He asserts that he was arrested without a warrant and
9 without probable cause. But his claims concerning his arrest and detention prior to his removal
10 proceedings are moot. To the extent his claims are not moot, he should raise them in his removal
11 proceedings.

12 II. BACKGROUND

13 Aredondo is a native and citizen of Mexico who entered the United States at an unknown
14 time and location. Declaration of Christopher Hubbard ("Hubbard Decl."), ¶ 3; Lambert Decl.,
15 Ex. A, Form I-213. He was arrested on August 9, 2025, in Los Angeles, California, due to being
16 unlawfully present in the United States. Hubbard Decl., ¶ 4. On August 10, 2025, the Department
17 of Homeland Security ("DHS") issued a Notice to Appear, charging him as removable pursuant to
18 8 U.S.C. § 1182(a)(6)(A)(i), as being present in the United States without being admitted or
19 paroled.² Lambert Decl., Ex. B, Notice to Appear, dated August 10, 2025. Aredondo was
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21

22 ¹ "Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who
23 (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.

24 ² DHS issued a superseding Notice to Appear on September 28, 2025. Lambert Decl., Ex. C, Notice to Appear, dated
September 28, 2025.

1 transferred to the Northwest ICE Processing Center on August 17, 2025, where he is now detained.

2 Hubbard Decl., ¶ 6.

3 On October 2, 2025, the immigration judge denied Aredondo's bond redetermination
4 request because he is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). Hubbard
5 Decl., ¶ 10; Lambert Decl., Ex. D, Order of the Immigration Judge.

6 **III. ARGUMENT**

7 **A. Aredondo's habeas claims challenging his arrest are moot.**

8 The legality of Aredondo's arrest is not presently relevant and thus cannot be the basis for
9 habeas relief. The habeas statute allows a petitioner who is "in custody" to challenge that custody
10 on various grounds, 28 U.S.C. §2241(c), including that "[h]e is in custody in violation of the
11 Constitution or laws or treaties of the United States." 28 U.S.C. §2241(c)(3). The statute is written
12 in the present tense, making clear that Section 2241 only allows a petitioner to challenge his current
13 custody, not his past custody. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("the essence
14 of habeas corpus is an attack by a person *in custody* upon the legality of *that custody*" (emphasis
15 added)).

16 Since removal proceedings are underway, Aredondo's current custody flows not from his
17 arrest and initial post-arrest detention, but from the authority of the Immigration and Nationality
18 Act ("INA"). *See, e.g.*, 8 U.S.C. §1225(b)(2). While Aredondo is free to challenge his current
19 custody based on that statutory authority – and he has done so (Pet., ¶ 13) – any habeas claim basis
20 on his arrest is now moot, since the arrest is not the source of his present custody. *See Barker v.*
21 *Estelle*, 913 F.2d 1433, 1440 (9th Cir. 1990) (habeas petition challenging pretrial detention was
22 moot once petitioner was incarcerated pursuant to a judgment of conviction); *James v. Reese*,
23 546 F.2d 325, 328 (9th Cir. 1976) (same).

1 The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible
2 and deportable noncitizens and to ensure that noncitizens who are removable are in fact removed
3 from the United States. “[D]etention necessarily serves the purpose of preventing deportable []
4 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that if
5 ordered removed, the aliens will be successfully removed.” *Demore v. Kim*, 538 U.S. 510, 528
6 (2003). The Supreme Court has long held that deportation proceedings “would be in vain if those
7 accused could not be held in custody pending the inquiry” of their immigration status. *Wong Wing*
8 *v. United States*, 163 U.S. 228, 235 (1896). Congress intended for all applicants for admission to
9 be detained during the course of their removal proceedings. *See Jennings*, 583 U.S. at 299
10 (interpreting the “plain meaning” of sections 1225(b)(1) and (2) to mean that applicants for
11 admission be mandatorily detained for the duration of their immigration proceedings).

12 **B. This Court lacks jurisdiction over Aredondo’s habeas claim challenging his**
13 **warrantless arrest before the commencement of his removal proceedings.**

14 In 8 U.S.C. §1252(b), Congress “consolidated judicial review of immigration proceedings
15 into one action in the court of appeals.” *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 233 (2020)
16 (quotation marks and citation omitted). This provision is known as the “zipper clause” because it
17 “consolidates or ‘zips’ ‘judicial review’ of immigration proceedings into one action in the court of
18 appeals.” *Singh v. Gonzales*, 499 F.3d 969, 976 (9th Cir. 2007) (citation omitted). This statute
19 provides:

20 Judicial review of all questions of law and fact, including interpretation and
21 application of constitutional and statutory provisions, arising from any action
22 taken or proceeding brought to remove an alien from the United States under
23 this subchapter shall be available only in judicial review of a final order under
24 this section. *Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other*

1 provision of law (statutory or nonstatutory), to review such an order or such
2 questions of law or fact.

3 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“a petition for review . . .
4 shall be the sole and exclusive means for judicial review of an order of removal”). “Taken
5 together, § 1252(a)(5) and § 1252(b)(9) mean that any issue – whether legal or factual – arising
6 from any removal-related activity can be reviewed only through the [petition for review] process.”
7 *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016).

8 While claims “collateral to, or independent of” the removal process are still subject to
9 habeas review, “[w]hen a claim by an alien, however it is framed, challenges the procedure and
10 substance of an agency determination that is ‘inextricably linked’ to the order of removal, it is
11 prohibited by section 1252(a)(5).” *Id.* Here, Aredondo’s claims are inextricably linked to
12 “questions of law and fact, including interpretation and application of constitutional and statutory
13 provisions, arising from any action taken or proceeding brought to remove an alien.” 8 U.S.C.
14 § 1252(b)(9).

15 For example, Aredondo alleges that his warrantless arrest was unlawful because it was
16 unsupported by probable cause and thus violated the Fourth Amendment. Pet., ¶ 13. He does not
17 explain how a Fourth Amendment-like violation in effecting his arrest entitles him to release from
18 custody. Aredondo has been issued a Notice to Appear and has been charged with an immigration
19 violation; how he came to be in custody to answer that charge is no defense to that proceeding.
20 *See United States v. Alvarez-Machain*, 504 U.S. 655, 662-70 (1992) (fact that the defendant was
21 kidnapped to bring him before the court was not a defense to prosecution); *Frisbie v. Collins*,
22 342 U.S. 519, 522 (1952) (same); *Ker v. Illinois*, 119 U.S. 436, 444 (1886) (same).

23 If Aredondo is attempting to analogize his circumstance to a criminal prosecution, he still
24 does not support his claim for release. Such an argument would be that because his rights were

1 violated, the evidence obtained as a result should be suppressed under the exclusionary rule (as is
2 true for Fourth Amendment violations in criminal cases). But suppression would not impact his
3 removal proceedings. Even if the statements or fingerprints leading to his identification were
4 subject to suppression, immigration authorities could simply take a second set of fingerprints to
5 confirm Aredondo's identity, *see United States v. Ortiz-Hernandez*, 427 F.3d 567, 577 (9th Cir.
6 2005), and then could "rely on his identity, as well as his ... immigration record" to prosecute the
7 removal proceeding.

8 But this line of argument would require the Court to opine on the merits of the immigration
9 proceeding. This shows that the claims involving Aredondo's arrest are inextricably intertwined
10 with "the proceeding brought to remove an alien," 8 U.S.C. §1252(b)(9), and judicial review must
11 be channeled to the Court of Appeals. Indeed, claims relating to an immigrant's detention and
12 arrest are routinely raised in petitions for review to the court of appeals. *See, e.g., Gamez-Reyes*
13 *v. Bondi*, No. 22-2681, 2025 WL 501400, at *1 (9th Cir. 2025); *Ramierz Santiago v. Garland*,
14 No. 22-619, 2023 WL 6875282, at *1 (9th Cir. 2023); *B.R. v. Garland*, 26 F.4th 827, 840 (9th Cir.
15 2022). Because Section 1252(b)(9) applies, this Court lacks jurisdiction to grant habeas relief
16 based on Aredondo's Fourth Amendment claim. *See Marvan v. Slaughter*, No. CV 25-49-H-DLC,
17 2025 WL 1940043, at *3-*4 (D. Mont. July 15, 2025) (holding that jurisdiction was lacking to
18 review a similar Fourth Amendment claim brought in a habeas petition filed after removal
19 proceeding commenced).

20 IV. CONCLUSION

21 While Respondents acknowledge Aredondo's membership in the *Rodriguez Vasquez*
22 Bond Denial Class, this Court should deny his habeas claim that his arrest violated the Fourth
23 Amendment requiring his release.

1 DATED this 8th day of October, 2025.

2 Respectfully submitted,

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15 *I certify that this memorandum contains 1,713 words, in*
16 *compliance with the Local Civil Rules.*