

The Honorable Tiffany M. Cartwright

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

M.M.,

Petitioners,

v.

Cammilla WAMSLEY, Seattle Field
Office Director, Enforcement and
Removal Operations, *et. al.*,

Respondents.

Case No. 2:25-cv-02074-TMC

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for consideration on:
November 3, 2025

Petitioner M.M. seeks habeas relief from his mandatory immigration detention. U.S. Immigration and Customs Enforcement detains him pursuant to 8 U.S.C. § 1225(b). Federal Respondents acknowledge that this Court granted summary judgment and found 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-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).

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

1 **A. 8 U.S.C. § 1225(b)**

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

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

22 Congress has determined that all noncitizens subject to Section 1225(b) are subject to
23 mandatory detention. Regardless of whether a noncitizen falls under Section 1225(b)(1) or (b)(2),
24

1 the sole means of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian
2 reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

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

13 **B. Petitioner M.M.**

14 While Federal Respondents do not agree with the *Rodriguez Vasquez* decision and are still
15 weighing their options on how to proceed, they do not oppose this Petitioner being considered
16 members of the Bond Denial Class² for purposes of this litigation. An Immigration Judge recently
17 denied this Petitioner’s requests for bond due to lack of jurisdiction after determining that they
18 are subject to mandatory detention. *See* Dkt. 1, ¶ 4. Petitioner was also issued an alternate bond
19 order. *Id.*, ¶ 11.

20 If the Court were to grant the habeas petition with respect to this Petitioner, the appropriate
21 relief would be for him to either have a bond redetermination hearing in the immigration court
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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 pursuant to 8 U.S.C. § 1226(a) or to be released upon payment of the bond amount found in the
2 alternate order by the Immigration Judge in his bond hearing.

3 DATED this 31st day of October, 2025.

4 Respectfully submitted,

5 CHARLES NEIL FLOYD
6 United States Attorney

7 *s/ James C. Strong*

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16 *I certify that this memorandum contains 751 words, in*
17 *compliance with the Local Civil Rules.*