The Honorable Tiffany M. Cartwright

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARCO CANTERO GARCIA, *et. al.* Petitioners, v. CAMMILLA WAMSLEY, Seattle Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement, *et al.*, Respondents.	Case No. 2:25-cv-02092-TMC FEDERAL RESPONDENTS' RETURN MEMORANDUM

Petitioners Marco Cantero Garcia, Jose Villalvozo-Benitez, Armando Benitez Chavez, Kevin Munoz-Quiterio, and Manuel Villalba Cordova seek habeas relief from their mandatory immigration detention, alleging they are members of the defined class in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). Federal Respondents acknowledge that Petitioners are members of the class but maintain that U.S. Immigration and Customs Enforcement lawfully detain all of them 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 Vazquez* to be

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700 STEWART STREET, SUITE 5220
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(206) 553-7970

unlawful. Federal Respondents are appealing the Court's order in *Rodriguez Vazquez*. No. 3:25-cv-05240-TMC, Dkt. No. 71, Notice of Appeal.

I. LEGAL BACKGROUND

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

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

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Congress has determined that all noncitizens subject to Section 1225(b) are subject to mandatory detention. Regardless of whether a noncitizen falls under Section 1225(b)(1) or (b)(2), the sole means of release is "temporary parole from § 1225(b) detention 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings,* 583 U.S. at 283.

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

II. ARGUMENT

A. Petitioners Cantero Garcia, Villalvozo-Benitez, Benitez Chavez, and Villalba Cordova

While Federal Respondents do not agree with the *Rodriguez Vazquez* decision and have appealed that decision to the Ninth Circuit, they do not oppose Petitioners Cantero Garcia, Villalvozo-Benitez, Benitez Chavez, and Villalba Cordova from being considered members of the Bond Denial Class[1] for purposes of this litigation.

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[1] "Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who (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 Vazquez*, 2025 WL 2782499, at *6.

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If the Court were to grant the habeas petition with respect to Petitioners Cantero Garcia, Villalvozo-Benitez, Benitez Chavez, and Villalba Cordova, the appropriate relief would be for them to either have a bond redetermination hearing in the immigration court pursuant to 8 U.S.C. § 1226(a) or to be released upon payment of the bond amount found in the alternate order by the Immigration Judge in their respective bond hearings. *See* Dkt. 1, ¶ 6, Dkt. 3, Ex. C (Cantero Garcia), ¶ 10, Dkt. 3, Ex. G (Villalvozo-Benitez), ¶ 13, Dkt. 3, Ex. J (Benitez Chavez), ¶ 20, Dkt. 3, Ex. Q (Villalba Cordova).

B. Petitioner Munoz-Quitiero

Unlike the other four Petitioners, Petitioner Munoz-Quitiero should not be released even if this Court finds that he is a member of the *Rodriguez Vazquez* Bond Denial Class. As described below, the Immigration Judge included an alternate bond determination denying bond because Munoz-Quitiero presents a danger to the community. Accordingly, this Court should not order his release.

i. Factual Background

Munoz-Quitiero is a native and citizen of Mexico who entered the United States at an unknown date. Rodriguez Decl., ¶ 3; Dkt. 3, Ex. L. On or about October 29, 2015, the Circuit Court for Washington County, Oregon convicted Munoz-Quitiero of Attempted Rape in the Third Degree. Rodriguez Decl., ¶ 6; Strong Decl., Ex. 1 (Judgment of Conviction and Sentence). The Department's records also suggest that Munoz-Quitiero has subsequent convictions for Assault in the Fourth Degree Constituting Domestic Violence, Harassment, and Contempt. Rodriguez Decl., ¶ 7.

The Department of Homeland Security issued him a Notice to Appear in 2016, charging him as inadmissible under INA § 212(a)(6)(A)(i) as a noncitizen present in the United States without being admitted or paroled. Rodriguez Decl., ¶ 5; Dkt. 3, Ex. L. On April 30, 2025, Munoz-

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Quitiero was brought into ICE custody and transferred to the Northwest ICE Processing Center. Rodriguez Decl., ¶ 8. Munoz-Quitiero requested a bond hearing before an immigration judge. Rodriguez Decl., ¶ 9. The Immigration Judge denied bond to Munoz-Quitiero, finding no jurisdiction under INA §§ 235(b)(1) and 235(b)(2)(A), and BIA precedent decisions. Rodriguez Decl., ¶ 10; Dkt. 1, ¶ 16, Dkt. 3, Ex. M. In the alternative, the Immigration Judge stated that if jurisdiction was present, bond would have been denied because Munoz-Quitiero presented a danger to the community. *Id.* Munoz-Quitiero appealed the bond denial to the BIA, which remains pending. Rodriguez Decl., ¶ 11; Dkt. 1, ¶ 17, Dkt. 3, Ex. N. On August 14, 2025, Munoz-Quitiero was ordered removed by an immigration judge, which he has appealed to the Board of Immigration Appeals ("BIA"). Rodriguez Decl., ¶ 12.

ii. Argument

This Court should deny the habeas petition as it pertains to Munoz-Quitiero because has not yet exhausted his administrative remedies. Ordinarily, if a noncitizen is "dissatisfied with the [immigration judge's] bond determination, they may file an administrative appeal so that 'the necessity of detention can be reviewed by … the BIA.'" *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). Once the BIA issues its decision, the noncitizen may then pursue habeas relief in the district court and then to the Court of Appeals. *Id.* As Munoz-Quitiero acknowledges, his BIA appeal is still pending. Dkt. 1, ¶ 17, Dkt. 3, Ex. N; *see also* Rodriguez Decl., ¶ 11. Therefore, he has not exhausted his administrative remedies.

To the extent he might argue exhaustion of administrative remedies is not a jurisdictional prerequisite for habeas petitions, courts still generally "require, as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking [such] relief." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006)). Nevertheless, "when a petitioner does

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not exhaust administrative remedies, a district court ordinarily should either dismiss the petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused." *Leonardo*, 646 F.3d at 1160.

Aden v. Nielson, No. 18-1441-RSL, 2019 WL 5802013 (W.D. Wash. Nov. 7, 2019) is instructive why the Court should require Munoz-Quitiero to exhaust his remedies before the BIA. In *Aden*, the Court required a petitioner to exhaust his administrative remedies prior to bringing a claim that the IJ erroneously applied the evidentiary standard during a court-ordered bond hearing, allegedly depriving the petitioner of his due process rights. *Id.* at *1. The Court looked at Ninth Circuit jurisprudence distinguishing "between constitutional claims that only an Article III court can resolve and issues with constitutional implications that may nonetheless be corrected by the BIA on appeal.... The latter category of challenges is subject to prudential exhaustion requirements." *Id.* The Court found that the BIA could assess petitioner's assertions that the IJ relied too heavily on his criminal history. *Id.*, at *2 ("the BIA is capable of re-assessing the evidence and determining whether the government has carried its burden of demonstrating by clear and convincing evidence that [the petitioner] is a current danger and must be detained"). Similarly, Munoz-Quitiero alleges that the IJ misconstrued his criminal history in finding in its alternative finding that he was a danger to the community. Dkt. 3, Ex. N. Like in *Aden*, this is a finding that the BIA is capable of reassessing.

To the extent Munoz-Quitiero might rely on distinctions this Court drew between *Aden* and its ruling in *Rodriguez Vazquez* on the motion for preliminary injunction, the distinctions the Court addressed there are not applicable. There, the Court examined the factors where prudential exhaustion should be required, namely: "(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review

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is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." *Rodriguez Vazquez v. Bostock*, 779 F. Sup. 3d 1239, 1250 (W.D. Wash. 2025) (quoting *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) and *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007)). Here, the *Puga* factors weigh in favor of requiring prudential exhaustion.

The first *Puga* factor weighs in favor of exhaustion because the BIA has "subject-matter expertise for individual immigration bond decisions" as the Court recognized in *Rodriguez Vazquez*. 779 F.Supp.3d at 1251. The Court, however, held that the BIA's expertise was not necessary because the issue there was a purely legal question, *see id.*, but here, the Court would benefit from an administrative appellate record because the IJ has reached an alternative finding that is factual in nature, *i.e.*, whether Munoz-Quitiero is a danger to the community. The second *Puga* factor also weighs in favor of exhaustion because there is no question that where it has jurisdiction, the Immigration Court has authority to deny bond if the noncitizen is a danger to the community. *Rodriguez Vazquez*, 779 F.Supp.3d at 1244. Instead, this case is more like *Aden*, which concerned a challenge of whether sufficient evidence was proffered to meet that standard. *Cf. id.* at 1251. Allowing a "relaxation of the exhaustion requirement" for Munoz-Quitiero would permit other detainees to directly appeal their alternative bond determinations to federal district court without any further without an administrative appellate record. Last, the third *Puga* factor weighs in favor of exhaustion because the BIA is capable of reviewing evidentiary findings and could preclude the need for judicial review.

If Munoz-Quitiero might argue that prudential exhaustion should be excused because his "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void," he would be wrong. *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). While Munoz-Quitiero might point to the BIA's precedential decision that the Immigration Court that his appeal

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700 STEWART STREET, SUITE 5220
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(206) 553-7970

might be dismissed on jurisdictional grounds without reaching the alternative bond order, it is speculative to reach that assumption. Moreover, even if that were to occur, the Department and Munoz-Quitiero will have created an appellate record for this Court to review in a subsequent habeas proceeding. Moreover, Munoz-Quitiero cannot point to an irreparable injury because the alternative determination gave him the benefits of a bond hearing, *i.e.*, an individualized determination that he should not be released because he is a danger to the community which he can then appeal to the BIA. The *Laing* factors do not favor excusing the prudential exhaustion requirements, which should be applied here. Because Munoz-Quitiero has not yet exhausted his remedies, his habeas petition is premature and should be denied to the extent that this Court finds that he is a member of the Bond Denial class.

III. CONCLUSION

For the aforementioned reasons, the habeas petition should be denied.

DATED this 4th day of November, 2025.

Respectfully submitted,

CHARLES NEIL FLOYD
United States Attorney

s/ James C. Strong
JAMES C. STRONG, WSBA No. 59151
Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4067
Email: james.strong@usdoj.gov

Attorneys for Federal Respondents

I certify this memorandum contains 2,176 words in compliance with the Local Civil Rules.