

The Honorable Tiffany M. Cartwright

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

OMAR MARCIAL NAVARETTE,

Petitioner,

v.

LAURA HERMOSILLO, Seattle Field Office  
Director, Enforcement and Removal Operations,  
United States Immigration and Customs  
Enforcement,<sup>1</sup> *et al.*,

Respondents.

Case No. 2:25-cv-02150-TMC

FEDERAL RESPONDENTS'<sup>2</sup>  
RETURN MEMORANDUM

Petitioner Omar Marcial Navarette seeks habeas relief from his mandatory immigration detention. U.S. Immigration and Customs Enforcement detains him pursuant to 8 U.S.C. § 1225(b).

Petitioner alleges that he is similarly situated to people of the defined class in *Rodriguez Vazquez v. Bostock*. No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). Dkt. 1, ¶¶ 40, 45-47. Federal Respondents acknowledge this Court granted summary judgment and

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<sup>1</sup> Laura Hermosillo, Seattle Acting Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement is substituted for Camilla Wamsley, pursuant to Fed. R. Civ. P. 25(d).

<sup>2</sup> Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 found that detention pursuant to 8 U.S.C. § 1225(b)(2) of the defined class in *Rodriguez Vazquez*  
2 is unlawful.<sup>3</sup> Petitioner, however, is not a class member because he has not requested a bond  
3 hearing. If he did so, Petitioner would meet the Bond Denial class definition, after which the  
4 appropriate relief would be a bond redetermination hearing in immigration court.

5 **I. LEGAL AND FACTUAL BACKGROUND**

6 **A. 8 U.S.C. § 1225(b)**

7 While acknowledging the Court’s decision in *Rodriguez Vazquez*, Federal Respondents  
8 continue to believe Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b).  
9 *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb. Sept. 30, 2025)  
10 (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*, --- F. Supp. 3d  
11 ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same). Noncitizens who are apprehended shortly  
12 after illegally crossing the border and who are determined to be inadmissible due to lacking a visa  
13 or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may be removed pursuant to an expedited  
14 removal order unless they express an intention to apply for asylum or a fear of persecution in their  
15 home country. 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of these provisions is to  
16 expedite the removal from the United States of aliens who indisputably have no authorization to  
17 be admitted to the United States, while providing an opportunity for such an alien who claims  
18 asylum to have the merits of his or her claim promptly assessed by officers with full professional  
19 training in adjudicating asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d Sess. 209  
20 (1996).

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23 <sup>3</sup> “Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who (1)  
24 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 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers  
2 noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid  
3 documentation, and certain other noncitizens designated by the Attorney General in her discretion.  
4 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for  
5 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*  
6 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

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

21 **B. Petitioner Omar Marcial Navarette**

22 Petitioner is a native and citizen of Mexico who entered the United States without inspection  
23 at an unknown location on an unknown date. Hubbard Decl., ¶¶ 3-4. On October 21, 2025,  
24 Petitioner was taken into ICE custody; and he was later issued a Notice to Appear that same day.

1 *Id.*, ¶ 5; Strong Decl., Ex. A (Notice to Appear). Although Petitioner claims that an “immigration  
2 judge is unable to consider [his] bond request,” Federal Respondents could locate no evidence to  
3 date that he has requested a bond hearing before the immigration court. *Compare* Dkt. 1, ¶ 46 with  
4 Hubbard Decl., ¶ 7.

## 5 II. ARGUMENT

6 As of now, Petitioner is not a member of the *Rodriguez Vazquez* bond denial class and  
7 therefore is not entitled to relief. To date, Federal Respondents could locate no evidence that he  
8 has requested a bond hearing. Hubbard Decl., ¶ 7. In *Rodriguez Vazquez*, the Court defined the  
9 bond denial class as: “All noncitizens without lawful status detained at the Northwest ICE  
10 Processing Center who (1) have entered or will enter the United States without inspection, (2) are  
11 not apprehended upon arrival, (3) are not or will not be subject to detention under 8 U.S.C. §  
12 1226(c), § 1225(b)(1), or § 1231 *at the time the noncitizen is scheduled for or requests a bond*  
13 *hearing.*” *Rodriguez Vazquez*, 2025 WL 2782499, at \*6 (emphasis added).

14 Because there is no evidence that Petitioner has requested a bond hearing, he is not a  
15 member of the *Rodriguez Vazquez* class and is therefore not entitled to the relief he seeks.  
16 However, Federal Respondents acknowledge that if and when Petitioner properly requests a bond  
17 hearing, he will become a member of the class. Once that occurs, and if the Court were to grant  
18 the habeas petition with respect to Petitioner, the appropriate relief would be for him to have a  
19 bond hearing in the immigration court pursuant to 8 U.S.C. § 1226(a).

## 20 III. CONCLUSION

21 The habeas petition should be denied because he is not a member of the *Rodriguez Vazquez*  
22 class at this time.

23 DATED this 6th day of November, 2025.

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Respectfully submitted,

CHARLES NEIL FLOYD  
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*s/ James C. Strong*

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*Attorneys for Federal Respondents*

*I certify that this memorandum contains 1,020 words in compliance with the Local Civil Rules.*