

District Judge John H. Chun
Magistrate Judge Michelle L. Peterson

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

SERGIO GOMEZ ROMERO,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02207-JHC-MLP

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

I. INTRODUCTION

This Court should deny Petitioner Sergio Gomez Romero's Petition for a Writ of Habeas Corpus. Dkt. 1. Petitioner asserts U.S. Immigration and Customs Enforcement ("ICE") unlawfully redetained him without prior written notice and a pre-deprivation hearing. However, Petitioner was lawfully taken into custody as he is subject to mandatory detention. As an applicant for admission, Petitioner's detention is lawful pursuant to 8 U.S.C. § 1225(b).

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

II. BACKGROUND

A. 8 U.S.C. § 1225(b)

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 aliens 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). Petitioner is an applicant for admission who is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). *See Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

B. Petitioner

Petitioner is a native and citizen of Mexico who illegally entered the United States who asserts that he was brought to the United States as 35 years ago. Pet., ¶¶ 22, 23; Benjamin Decl., ¶ 3. In 2011, the Department of Homeland Security (“DHS”) issued Petitioner a notice to appear that charged him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and took him into immigration custody. Benjamin Decl., ¶¶ 6, 7; Lambert Decl., Ex. A, Notice to Appear; Ex. B, Warrant for Arrest. That same day, DHS released Petitioner on \$5,000 bond. Benjamin Decl., ¶ 8; Lambert Decl., Ex. C. In 2014, Petitioner’s removal proceedings were administratively closed, and his bond was cancelled. Benjamin Decl., ¶¶ 11, 12. Lambert Decl., Ex. D, Order.

On November 4, 2025, ICE detained Petitioner on an administrative arrest warrant. Benjamin Decl., ¶ 13; Lambert Decl., Ex. E, Warrant for Arrest; Ex. F, Form I-213. Shortly thereafter, DHS moved the immigration court to recalendar his case to render his removal proceedings active. Benjamin Decl., ¶ 14. On November 10, 2025, an immigration judge granted

1 the request, and his case was transferred to Tacoma Immigration Court. *Id.*, ¶ 15. A master
2 calendar hearing is set for December 15, 2025. *Id.*, ¶ 16.

3 On November 5, 2025, Petitioner filed this habeas action. He claims that his detention
4 violates due process because redetained without written notice and a pre-deprivation hearing
5 before a neutral decisionmaker to determine whether redetention is warranted based on danger or
6 flight risk. Pet., ¶ 46. He seeks an order for his immediate release and a permanent injunction of
7 his redetention “during the pendency of his removal proceedings absent written notice and a
8 hearing prior to re-detention where Respondents must” demonstrate danger or risk of flight by
9 clear and convincing evidence. *Id.*, Prayer for Relief.

10 III. ARGUMENT

11 A. ICE lawfully detained Petitioner pursuant to 8 U.S.C. § 1225(b).²

12 Congress enacted a multi-layered statutory scheme that provides for the civil detention of
13 noncitizens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008).
14 Where an individual falls within this scheme affects whether his detention is discretionary or
15 mandatory, as well as the kind of review process available. *Id.*, at 1057. Congress has determined
16 that all aliens subject to Section 1225(b) are subject to mandatory detention. Regardless of whether
17 an alien falls under Section 1225(b)(1) or (b)(2), the sole means of release is “temporary parole
18 from § 1225(b) detention ‘for urgent humanitarian reasons or significant public benefit,’ §
19 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

20 Petitioner’s detention is lawful pursuant to Section 1225(b). The statute demonstrates that
21 Petitioner is an “applicant for admission” under Section 1225(a). Petitioner does not assert that he
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23 ² Petitioner has not asserted that he is a member of the Bond Denial Class certified in *Rodriguez Vasquez v. Bostock*,
24 No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025), and ICE has not assessed his potential
class membership status. If Petitioner asserts that he is a Bond Denial Class member, Federal Respondents ask for an
opportunity to provide its position on this issue.

1 entered the United States lawfully; nor does he assert that he now has legal status. That provision
2 specifically provides that any “alien present in the United States who has not been admitted ...
3 shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a)(1).
4 Because Petitioner entered the country without inspection, and was never “admitted,” he thus
5 unambiguously remains an “applicant for admission.”

6 **B. Petitioner’s 2025 arrest does not violate due process.**

7 Petitioner was lawfully detained pursuant to an administrative arrest warrant. A pre-
8 deprivation hearing to determine whether Petitioner was a flight risk or danger to the community
9 is outside of the bounds of what should be required. There is no statutory or regulatory requirement
10 for a hearing before an individual is detained when the government seeks to reopen removal
11 proceedings after no longer asserting prosecutorial discretion. The Supreme Court has warned
12 courts against reading additional procedural requirements into the Immigration and Nationality
13 Act. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific
14 bond hearing requirement into 8 U.S.C. § 1231(a)(6) because “reviewing courts . . . are generally
15 not free to impose [additional procedural rights] if the agencies have not chosen to grant them”)
16 (quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435
17 U.S. 519, 524 (1978) (cleaned up)).

18 Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth Circuit in *Rodriguez Diaz*
19 recognized that “the government clearly has a strong interest in preventing aliens from
20 ‘remain[ing] in the United States in violation of our law.’” *Rodriguez Diaz v. Garland*, 53 F.4th
21 1189, 1208 (9th Cir. 2022) (quoting *Demore v Kim*, 538 U.S. 510, 518 (2003)). Federal
22 Respondents acknowledge that district courts have recently decided that the revocation of
23 conditional parole requires a pre-detention hearing to determine if that noncitizen is a flight risk
24 or a danger to the community. *See, e.g., E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL

2402130, at *5 (W.D. Wash. Aug. 19, 2025). Federal Respondents respectfully disagree with those decisions. Petitioner does not assert that his presence in the United States is lawful. Moreover, his release was the result of an exercise of prosecutorial discretion for which he had no liberty interest. Finally, his detention was necessary as he is subject to mandatory detention under 8 U.S.C. § 1225(b). Thus, a pre-detention hearing would be futile under these circumstances.

CONCLUSION

For the foregoing reasons, Federal Respondents respectfully request that this Court deny the Petition.

DATED this 21st day of November, 2025.

Respectfully submitted,

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I certify that this memorandum contains 1,117 words, in compliance with the Local Civil Rules.