

District Judge Robert S. Lasnik
Magistrate Judge Michelle L. Peterson

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

M.S.G.,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02308-RSL-MLP

RESPONDENTS' RETURN
MEMORANDUM

Noted for Consideration:
December 1, 2025

Petitioner M.S.G. seeks habeas relief from their mandatory immigration detention. U.S. Immigration and Customs Enforcement detains him pursuant to 8 U.S.C. § 1225(b). 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 v. Bostock* is unlawful. *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). That decision is presently on appeal. *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, Dkt. 71.

A. 8 U.S.C. § 1225(b)

While acknowledging the Court's decision in *Rodriguez Vazquez*, Respondents continue to believe Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). *See Vargas*

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

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

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

23 Further, several provisions at 8 U.S.C. § 1252 preclude review. First, 8 U.S.C. § 1252(g)
24 bars review of Petitioner’s claims because they arise from the government’s decision to

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

9 **B. Petitioner M.S.G.**

10 As a threshold matter, there has been no bond determination in Petitioner's case. ICE has
11 advised that Petitioner has not had a bond hearing before the Immigration Judge and the
12 Immigration Judge has yet to make any findings regarding bond eligibility in this case.
13 Accordingly, this petition is not ripe for this Court's consideration. *Deakins v. Monaghan*, 484
14 U.S. 193, 199, (1988) ("Ripeness is an Article III doctrine designed to ensure that courts
15 adjudicate live cases or controversies and do not 'issue advisory opinions [or] declare rights in
16 hypothetical cases.'"); *Bishop Paiute Tribe v. Inyo Cty.*, 863 F.3d 1144, 1153 (9th Cir. 2017)
17 (alteration in original) (quoting *Thomas v. Anchorage Equal Rights Comm'n*, 220 F.3d 1134, 1138
18 (9th Cir. 2000) (en banc)) ("For a case to be ripe, it must present issues that are definite and
19 concrete, not hypothetical or abstract."). Even if the Court were to consider the case, Petitioner
20 has failed to exhaust the administrative remedies available to him, and the petition should
21 therefore be dismissed. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011) ("When a
22 petitioner does not exhaust administrative remedies, a district court ordinarily should either
23 dismiss the [habeas] petition without prejudice or stay the proceedings until the petitioner has
24 exhausted remedies, unless exhaustion is excused."); see also *Rodriguez Mendoza, et al., v.*

1 *Raycraft*, et al., 2025 WL 3157796, at *11 (N.D. Ohio Nov. 12, 2025) (finding that administrative
2 exhaustion requirement not waived as futile when petitioner's appeal challenging the Immigration
3 Judge's bond denial based on finding mandatory detention under Section 1225 remained pending
4 before the Board of Immigration Appeals, post-issuance of *Matter of Yajure Hurtado*, 29 I&N
5 Dec. 216 (BIA 2025)).

6 Alternatively, while Respondents do not agree with the *Rodriguez Vazquez* decision and
7 are still weighing their options on how to proceed, they do not oppose this Petitioner being
8 considered a member of the Bond Denial Class¹ for purposes of this litigation. If the Court were
9 to grant the habeas petition with respect to this Petitioner, the appropriate relief is not release, as
10 Petitioner requests. Pet. at ¶ 38. Instead, this Court should order the Immigration Judge to provide
11 Petitioner a bond hearing pursuant to 8 U.S.C. §1226(a), consistent with the Court's judgement
12 in *Rodriguez*, 2025 WL 2782499, at *27.

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23 ¹ "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 DATED this 25th day of November, 2025

2 Respectfully submitted,

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16 *I certify that this memorandum contains 930*
17 *words, in compliance with Local Civil Rules.*