

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF CALIFORNIA

Ezequiel Rodriguez Barron

Petitioner,

v.

John Doe, Warden, Imperial Regional Adult Detention Facility; John Doe, Field Office Director, San Diego Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Homeland Security; PAMELA JO BONDI, United States Attorney General, *in their official capacities,*

Respondents.


Civil Action No.: 25-cv-3434-JES-AHG

**TRAVERSE TO RESPONDENTS'
RETURN TO HABEAS PETITION**

PETITIONER'S DHS NUMBER:



TRAVERSE

1. Petitioner Ezequiel Rodriguez Barron  expressly incorporates and realleges each fact alleged in the Petition for Writ of Habeas Corpus filed in this Court on December 4, 2025.
2. Petitioner entered the United States without inspection on or about January 15, 2012.
3. Petitioner entered through Arizona and not through a designated port of entry.
4. Petitioner did not encounter immigration authorities upon entry and was not detained.
5. Petitioner lived in the U.S. following this entry without legal immigration status and without

being detained by immigration authorities, prior to his current detention.

6. Since entering the U.S., Petitioner met his partner and has fathered three U.S. citizen children with her.
7. Aside from starting a family in the U.S., Petitioner's ties to his community deepened when he started his own landscaping and gardening business in 2024.
8. Petitioner has not left the U.S. since his entry in January 2012 and has no other entries into the U.S.
9. Petitioner is being charged in EOIR as an alien being present without admission or parole and not as an arriving alien. Exh. 1.
10. The Department of Homeland Security has submitted as evidence in the Petitioner's removal case with EOIR Form I-831, which narrates the Petitioner's entry in 2012 and confirms that he has no prior apprehensions by immigration authorities. Exh. 2.

Argument

A. Petitioner's pleadings are sufficient

The Petitioner has pled sufficient facts to show that his detention under Section 1225 is unlawful. These facts include his entry without inspection over a decade ago, his length of time in the U.S., his deep ties to his U.S. community, and his lack of detention by immigration authorities prior to the instant case. These facts are sufficient for a fact finder to conclude that Petitioner is not an alien applying for admission at a port-of-entry before an immigration official as described in Section 1225.

B. Petitioner's claims are not jurisdictionally barred

This Court has jurisdiction because the Petitioner is not challenging a removal order or the execution of a removal order, but rather the Respondents' position that he should be subject to mandatory custody under Section 1225. Respondents contend that 8 U.S.C. § 1252(g) strips this

Court of jurisdiction “to review a decision to commence or adjudicate removal proceedings or execute removal orders.” Res. at 8. However, this petition is challenging Respondents’ position that Petitioner is subject to mandatory detention under Section 1225 and the resulting bond denial and as such 8 U.S.C. § 1252(g) is not applicable. *See Martinez Lopez v. LaRose*, No. 3:25-cv-02717-JES-AGH, at 4 (S.D. Cal. Oct. 30, 2025).

The Respondents also argue that this Court is stripped of jurisdiction under 8 U.S.C. §§ 1252(b)(9) and (a)(5). Res. at 9 – 11. A plain reading of these statutes indicate that they intend to make final orders of removal under the exclusive review of courts of appeal, but not every order issued in a removal proceeding. *See Martinez Lopez* at 5.

Finally, the Respondents urge the Court to ensure that administrative remedies have been exhausted. Res. at 11. In this case, Respondent has requested bond redetermination with EOIR twice and was denied both times for lack of jurisdiction. Pet. ¶ 42. Additionally, the appellate body for bond redeterminations is the Board of Immigration Appeals. As noted in the Petition, ¶ 31, the BIA decided *Matter of Yajure Hurtado*, 29 I&N Dec. 216, (2025), a precedential decision holding that all persons who entered the U.S. without inspection are subject to mandatory detention under § 1225. In this case, appeal to the BIA would be futile and exhaustion should be waived. *See Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

C. Petitioner is unlawfully detained and his petition should be granted.

Petitioner reiterates the arguments for why his detention is unlawful under Section 1225 as made in his petition. Petitioner’s circumstances are similar to the circumstances of other petitioners in a plethora of *habeas corpus* petitions across the country challenging their detention under Section 1225. An overwhelming majority of courts are finding that the circumstances of these detentions are unlawful and that instead these petitioners should be allowed a substantive bond hearing under Section 1226. *See Martinez Lopez* at 8 – 9 (compiling cases).

Conclusion

For the foregoing reasons, the Court should grant the Petitioner's prayer for relief.

Dated: December 11, 2025

Respectfully submitted,

/s/Scott A. Emerick, Esq.

Scott A. Emerick
Bolour / Carl Immigration Group, APC
COUNSEL FOR PETITIONER

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I and others working under my supervision have discussed with Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Traverse are true and correct to the best of my knowledge.

/s/Scott A. Emerick

Date: December 11, 2025