

District Judge Tiffany M. Cartwright

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

JORGE ANGEL LUNA,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

Case No. 2:25-cv-02504-TMC

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
December 17, 2025

Petitioner seeks habeas relief from their mandatory immigration detention. U.S. Immigration and Customs Enforcement detains them pursuant to 8 U.S.C. § 1225(b). Federal Respondents acknowledge that in *Rodriguez Vazquez v. Bostock*, this Court granted summary judgment and found that detention pursuant to 8 U.S.C. § 1225(b)(2) of the Bond Denial Class 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. Additionally, in *Maldonado Bautista v. Santacruz*, the district court found the same, and extended declaratory relief to a similarly defined and certified nationwide Bond Eligible Class. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

1 **A. 8 U.S.C. § 1225(b)**

2 While acknowledging the decisions in *Rodriguez Vazquez* and *Maldonado*, Federal
3 Respondents continue to believe Petitioner is subject to mandatory detention pursuant to 8 U.S.C.
4 § 1225(b). *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb. Sept. 30,
5 2025) (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*, --- F.
6 Supp. 3d ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same). Noncitizens who are
7 apprehended shortly after illegally crossing the border and who are determined to be inadmissible
8 due to lacking a visa or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may be removed
9 pursuant to an expedited removal order unless they express an intention to apply for asylum or a
10 fear of persecution in their home country. 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of
11 these provisions is to expedite the removal from the United States of aliens who indisputably have
12 no authorization to be admitted to the United States, while providing an opportunity for such an
13 alien who claims asylum to have the merits of his or her claim promptly assessed by officers with
14 full professional training in adjudicating asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong.,
15 2d Sess. 209 (1996).

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

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

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

13 **B. *Rodriguez Vazquez* Class Membership**

14 Through this habeas action, Petitioner seeks relief as a member of the nationwide Bond
15 Eligible Class in *Maldonado Bautista*.¹ Pet. at 2. As mentioned above, the Bond Eligible Class in
16 *Maldonado Bautista* is substantially similar to the Bond Denial Class in *Rodriguez Vazquez*, with
17 *Rodriguez Vazquez* applying more narrowly to noncitizens detained at Northwest ICE Processing
18 Center.² Again, Federal Respondents do not agree with the *Rodriguez Vazquez* and *Maldonado*
19 *Bautista* decisions. However, in the alternative, Federal Respondents do not oppose Petitioner in
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21 ¹ “**Bond Eligible Class:** All noncitizens in the United States without lawful status who (1) have entered or will
22 enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (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 Department of
Homeland Security makes an initial custody determination.” *Maldonado Bautista*, 2025 WL 3288403, at *1.

23 ² “**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 the instant action being considered a member of the *Rodriguez Vazquez* Bond Denial Class, for
2 the purposes of this litigation. Federal Respondents do not believe that Petitioner can be a member
3 of both classes simultaneously, and treating Petitioner as a member of the *Rodriguez Vazquez*
4 Bond Denial Class will afford him the relief that he requests. Pet. at 9-10.

5 If the Court were to grant the habeas petition, the appropriate relief is not release. Rather,
6 this Court should order the Immigration Judge to provide Petitioner a bond hearing pursuant to 8
7 U.S.C. §1226(a), consistent with the Court's judgement in *Rodriguez*, 2025 WL 2782499, at *27.

8 DATED this 16th day of December, 2025

9 Respectfully submitted,

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11 United States Attorney

12 *s/ Katherine G. Collins*

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23 *I certify that this memorandum contains 784*
24 *words, in compliance with Local Civil Rules.*