

District Judge Jamal N. Whitehead
Magistrate Judge Michelle L. Peterson

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

RICARDO LOPEZ REYES,

Petitioner,

v.

LAURA HERMOSILLA, *et al.*,

Respondents.

Case No. 2:25-cv-02525-JNW-MLP

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
December 26, 2025

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Ricardo Lopez Reyes pursuant to 8 U.S.C. § 1225(b). Petitioner's claims arise from claims that his arrest in November violated the Fourth and Fifth Amendments. However, his claims are not a basis for habeas claims of unlawful detention. Petitioner should raise claims concerning his arrest in his ongoing immigration proceedings.

Accordingly, Federal Respondents respectfully request that this Court deny the Petition.

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¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by undersigned counsel.

II. BACKGROUND

Petitioner is a native and citizen of Mexico who entered the United States at an unknown time and location. Lambert Decl., Ex. A, Form I-213. He was arrested on November 8, 2025, in Seaside, Oregon, due to being unlawfully present in the United States. *Id.*; Lambert Decl., Ex. B, Warrant for Arrest. That same day, the Department of Homeland Security (“DHS”) issued a Notice to Appear, charging Petitioner pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), as being present in the United States without being admitted or paroled. Lambert Decl., Ex. C, Notice to Appear. Petitioner was subsequently transferred to the Northwest ICE Processing Center, where he is now detained. Pet., ¶ 3. Petitioner is scheduled to appear before the Tacoma Immigration Court for a master calendar hearing today. Lambert Decl., Ex. D, Notice of In-Person Hearing.

III. LEGAL STANDARD

“The district courts of the United States ... are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n. 20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

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

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.”

1 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*,
2 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims
3 and expeditiously removing the aliens making such claims from the country.”). Section 1225
4 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in
5 the United States who [have] not been admitted” or noncitizens “who arrive[] in the United
6 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for
7 admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by
8 § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S.
9 281, 287 (2018).

10 Relevant here, Section 1225(b)(2) is “broader” and “serves as a catchall provision.”
11 *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).”
12 *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to
13 mandatory detention pending full removal proceedings “if the examining immigration officer
14 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be
15 admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens “be detained for a proceeding
16 under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (explaining
17 that proceedings under section 1229a are “full removal proceedings under section 240 of the
18 INA”); *see also id.* (“[F]or aliens arriving in and seeking admission into the United States who are
19 placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. §
20 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing
21 *Jennings*, 583 U.S. at 299).

22 Federal Respondents acknowledge that courts in this District have considered whether
23 noncitizens similar to Petitioner are detained pursuant to Section 1225(b) or Section 1226(a) and
24 ruled against the Government’s position that Section 1225(b) applies.

Rodriguez Vazquez v. Bostock, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (the Government is appealing this decision). In *Rodriguez Vasquez*, the district court certified a “Bond Denial Class.”² 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).

While Federal Respondents’ position is that Petitioner is detained pursuant to Section 1225(b), Federal Respondents agree that Petitioner would be a member of the Bond Denial Class if he were to request a bond hearing. However, if this Court were to find that he is a class member, the appropriate remedy would be a bond hearing pursuant to Section 1226(a) – not release as requested here.

B. Petitioner’s claims concerning alleged constitutional violations during his arrest are not a basis for habeas claims of unlawful detention.

Petitioner’s claims concerning his arrest by immigration officers are not cognizable in this habeas action. *Marroquin Salazar v. Noem*, No. 5:25-cv-02367, 2025 WL 3535050, at *1 (C.D. Cal. Dec. 8, 2025) (adopting and quoting the Report & Recommendation, attached hereto as Exhibit E (the “*Marroquin-Salazar R&R*”)). Petitioner asserts that his arrest violated the Fourth and Fifth Amendments because he was allegedly seized without probable cause (Pet., ¶¶ 35-38); he was allegedly seized “based solely on race” (Pet., ¶¶ 39-41); and was not provided with notice and opportunity to be heard prior to his arrest. Pet., ¶¶ 42-47. Petitioner seeks his release from immigration custody. Pet., Prayer for Relief. But even if he could establish any of his claims –

^{2 2} “**Bond Denial Class:** All noncitizens without lawful status detained at the Northwest ICE Processing Center who (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 which Federal Respondents do not concede, they should not be brought via habeas and release
2 would not be an appropriate form of relief.

3 Since removal proceedings are underway, Petitioner's current custody flows not from his
4 arrest and initial post-arrest detention, but from the authority of the Immigration and Nationality
5 Act ("INA"). *See, e.g.*, 8 U.S.C. § 1225(b)(2). The legality of Petitioner's arrest is not presently
6 relevant and thus cannot be the basis for habeas relief. The habeas statute allows a petitioner who
7 is "in custody" to challenge that custody on various grounds, 28 U.S.C. § 2241(c), including that
8 "[h]e is in custody in violation of the Constitution or laws or treaties of the United States." 28
9 U.S.C. §2241(c)(3). The statute is written in the present tense, making clear that Section 2241
10 only allows a petitioner to challenge his current custody, not his past custody. *See Preiser v.*
11 *Rodriguez*, 411 U.S. 475, 484 (1973) ("the essence of habeas corpus is an attack by a person *in*
12 *custody* upon the legality of *that custody*" (emphasis added)).

13 While Petitioner is free to challenge his current custody based on that statutory authority,
14 any habeas claim basis on his arrest is now moot, since the arrest is not the source of his present
15 custody. *See Barker v. Estelle*, 913 F.2d 1433, 1440 (9th Cir. 1990) (habeas petition challenging
16 pretrial detention was moot once petitioner was incarcerated pursuant to a judgment of conviction);
17 *James v. Reese*, 546 F.2d 325, 328 (9th Cir. 1976) (same).

18 The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible
19 and deportable noncitizens and to ensure that noncitizens who are removable are in fact removed
20 from the United States. "[D]etention necessarily serves the purpose of preventing deportable []
21 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that if
22 ordered removed, the aliens will be successfully removed." *Demore v. Kim*, 538 U.S. 510, 528
23 (2003). The Supreme Court has long held that deportation proceedings "would be in vain if those
24 accused could not be held in custody pending the inquiry" of their immigration status. *Wong Wing*

1 *v. United States*, 163 U.S. 228, 235 (1896). Congress intended for all applicants for admission to
2 be detained during the course of their removal proceedings. *See Jennings*, 583 U.S. at 299
3 (interpreting the “plain meaning” of sections 1225(b)(1) and (2) to mean that applicants for
4 admission be mandatorily detained for the duration of their immigration proceedings).

5 Furthermore, this Court does not have jurisdiction to hear Petitioner’s claims that should
6 be raised in his immigration proceedings. In 8 U.S.C. §1252(b), Congress “consolidated judicial
7 review of immigration proceedings into one action in the court of appeals.” *Guerrero-Lasprilla v.*
8 *Barr*, 589 U.S. 221, 233 (2020) (quotation marks and citation omitted). This provision is known
9 as the “zipper clause” because it “consolidates or ‘zips’ ‘judicial review’ of immigration
10 proceedings into one action in the court of appeals.” *Singh v. Gonzales*, 499 F.3d 969, 976 (9th
11 Cir. 2007) (citation omitted). This statute provides:

12 Judicial review of all questions of law and fact, including interpretation and
13 application of constitutional and statutory provisions, arising from any action taken
14 or proceeding brought to remove an alien from the United States under this
15 subchapter shall be available only in judicial review of a final order under this
16 section. *Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.*

17 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“a petition for review . .
18 . shall be the sole and exclusive means for judicial review of an order of removal”). “Taken
19 together, § 1252(a)(5) and § 1252(b)(9) mean that any issue – whether legal or factual – arising
20 from any removal-related activity can be reviewed only through the [petition for review] process.”
21 *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016).

22 While claims “collateral to, or independent of” the removal process are still subject to
23 habeas review, “[w]hen a claim by an alien, however it is framed, challenges the procedure and
24 substance of an agency determination that is ‘inextricably linked’ to the order of removal, it is

1 prohibited by section 1252(a)(5).” *Id.* Here, Petitioner’s claims are inextricably linked to
2 “questions of law and fact, including interpretation and application of constitutional and statutory
3 provisions, arising from any action taken or proceeding brought to remove an alien.” 8 U.S.C. §
4 1252(b)(9).

5 Finally, the remedy for an unlawful arrest is the suppression of evidence obtained
6 therefrom, not release from custody. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1040-41 (1984);
7 *United States v. Garcia-Beltran*, 443 F.3d 1126, 1131-32 (9th Cir.), cert. denied, 549 U.S. 935
8 (2006); *see also Martinez-Medina v. Holder*, 673 F.3d 1029, 1033-34 (9th Cir. 2011) (exclusionary
9 rule applies in civil removal proceedings only when the Fourth Amendment violation is egregious).
10 “The ‘body’ or identity of a defendant or respondent in a criminal or civil proceeding is never itself
11 suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search,
12 or interrogation occurred.” *Lopez-Mendoza*, 468 U.S. at 1039; *see also Stone v. Powell*, 428 U.S.
13 465, 485 (1976) (noting that “judicial proceedings need not abate when the defendant’s person is
14 unconstitutionally seized” (citing *Gerstein v. Pugh*, 420 U.S. 103, 119 (1975); *Frisbie v. Collins*,
15 342 U.S. 519 (1952))); *Garcia-Beltran*, 443 F.3d at 1132 (“[T]here is no sanction to be applied
16 when an illegal arrest only leads to discovery of the man’s identity.” (quotation omitted)).

17 Accordingly, the extent that Petitioner seeks his release from custody based on the
18 allegedly unlawful arrest, there is no basis for the Court to grant such relief. *See, e.g., Rodrigues*
19 *De Oliveira v. Joyce*, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) (“Petitioner’s argument that
20 an illegal arrest automatically results in an illegal detention is misguided. . . . [E]ven if Petitioner’s
21 initial arrest was unlawful, her detention pending removal may stand.”); *Alonso-Portillo v. Bondi*,
22 2025 WL 2483393, at *11 (S.D. Ohio Aug. 28, 2025) (“Traditional application of the exclusionary
23 rule results in the suppression of evidence, as ‘fruits of the poisonous tree,’ obtained in violation
24 of the Fourth Amendment. But the rule does not, as Alonso-Portillo asserts here, dictate his

1 immediate release from detention.”); *Marvan v. Slaughter*, 2025 WL 1940043, at *3-4 (D. Mont.
2 July 15, 2025) (petitioner could not obtain habeas relief on Fourth Amendment violation where
3 administrative removal proceedings had commenced); *H.N. v. Warden*, Stewart Det. Ctr., 2021
4 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) (“even if the Court accepted Petitioner’s argument
5 that his initial detention was somehow unlawful, he is still not entitled to habeas relief.”); *Medina*
6 *v. U.S. Dep’t of Homeland Sec.*, 2017 WL 1101370, at *1-2 (W.D. Wash. Mar. 24, 2017)
7 (immigration detainee was not entitled to habeas relief because “the remedy for an unlawful arrest
8 in violation of the Fourth Amendment is suppression of evidence,” so if he “desire[d] release from
9 his current detention, his avenue for seeking such release should occur in the context of his removal
10 proceedings” (citations omitted)); *Amezcu-Gonzalez v. Lobato*, 2016 WL 6892934, at *2 (W.D.
11 Wash. Oct. 6, 2016) (dismissing petition challenging immigration detainee’s arrest on Fourth
12 Amendment grounds where detainee did not dispute that he was subject to final order of removal,
13 and his “only assertion [was] that he should be released because his arrest violated the Fourth
14 Amendment”; “even if petitioner’s arrest amounts to an egregious Fourth Amendment violation,
15 he is not entitled to habeas relief”), report and recommendation adopted, 2016 WL 6892547 (W.D.
16 Wash. Nov. 22, 2016); *Nyuwa v. Gurule*, 2014 WL 12984435, at *1 (D. Ariz. June 13, 2014) (“It
17 is doubtful that Petitioner’s arrest was unlawful. But even if it was, his allegedly unlawful arrest
18 does not invalidate his current immigration detention because ‘the “body” or identity of a
19 defendant in a criminal or civil proceeding is never itself suppressible as the fruit of an unlawful
20 arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred.’” (quoting
21 *Lopez-Mendoza*, 468 U.S. at 1039)).

22 V. CONCLUSION

23 Accordingly, this Court should deny Petitioner’s habeas claims that his arrest
24 violated the Fourth and Fifth Amendments requiring his release.

1 DATED this 18th day of December, 2025.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 2,463*
17 *words, in compliance with the Local Civil Rules.*