District Judge Tiffany M. Cartwright

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

FIDEL VAZQUEZ DOMINGUEZ,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02553-TMC

FEDERAL RESPONDENTS' RETURN MEMORANDUM

Noted for Consideration: January 6, 2026.

Petitioner seeks habeas relief from his mandatory immigration detention. U.S. Immigration and Customs Enforcement detains him 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).

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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),
24 the sole means of release is "temporary parole from § 1225(b) detention 'for urgent humanitarian

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reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings,* 583 U.S. at 283.

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

B. *Rodriguez Vazquez* Bond Denial Class Membership

Through this habeas action, Petitioner seeks relief as a member of the Bond Denial Class in *Rodriguez Vazquez*.[1] Again, Federal Respondents do not agree with the *Rodriguez Vazquez* decision. Alternatively, they do not oppose Petitioner being considered member of the *Rodriguez Vazquez* Bond Denial Class for purposes of this litigation. If the Court were to grant the habeas, the appropriate relief is not release. Rather, this Court should order the Immigration Judge to provide Petitioner a bond hearing pursuant to 8 U.S.C. §1226(a), consistent with the Court's judgement in *Rodriguez*, 2025 WL 2782499, at *27.

[1] "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.

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C. 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 stop and subsequent 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). Without clear factual support, Petitioner argues that his stop and arrest violated the Fourth and Fifth Amendments because he was allegedly stopped without reasonable suspicion and arrested without probable cause (Pet., ¶¶ 72-80). Petitioner seeks his release from immigration custody. Pet., Prayer for Relief. But even if he could establish any of his claims – which Federal Respondents do not concede, they should not be brought via habeas and release would not be an appropriate form of relief.

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

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

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1 conviction); *James v. Reese*, 546 F.2d 325, 328 (9th Cir. 1976) (same).

2 The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible
3 and deportable noncitizens and to ensure that noncitizens who are removable are in fact removed
4 from the United States. "[D]etention necessarily serves the purpose of preventing deportable []
5 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that
6 if ordered removed, the aliens will be successfully removed." *Demore v. Kim*, 538 U.S. 510, 528
7 (2003). The Supreme Court has long held that deportation proceedings "would be in vain if those
8 accused could not be held in custody pending the inquiry" of their immigration status. *Wong Wing*
9 *v. United States*, 163 U.S. 228, 235 (1896). Congress intended for all applicants for admission to
10 be detained during the course of their removal proceedings. *See Jennings*, 583 U.S. at 299
11 (interpreting the "plain meaning" of sections 1225(b)(1) and (2) to mean that applicants for
12 admission be mandatorily detained for the duration of their immigration proceedings).

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

20 > Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action
21 > taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under
22 > this 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*
23 > *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
24 > questions of law or fact.

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1 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) ("a petition for review .
2 . . shall be the sole and exclusive means for judicial review of an order of removal"). "Taken
3 together, § 1252(a)(5) and § 1252(b)(9) mean that any issue – whether legal or factual – arising
4 from any removal-related activity can be reviewed only through the [petition for review] process."
5 *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016).

6 While claims "collateral to, or independent of" the removal process are still subject to
7 habeas review, "[w]hen a claim by an alien, however it is framed, challenges the procedure and
8 substance of an agency determination that is 'inextricably linked' to the order of removal, it is
9 prohibited by section 1252(a)(5)." *Id.* Here, Petitioner's claims are inextricably linked to
10 "questions of law and fact, including interpretation and application of constitutional and statutory
11 provisions, arising from any action taken or proceeding brought to remove an alien." 8 U.S.C. §
12 1252(b)(9).

13 Finally, the remedy for an unlawful arrest is the suppression of evidence obtained
14 therefrom, not release from custody. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1040-41 (1984);
15 *United States v. Garcia-Beltran*, 443 F.3d 1126, 1131-32 (9th Cir.), cert. denied, 549 U.S. 935
16 (2006); *see also Martinez-Medina v. Holder*, 673 F.3d 1029, 1033-34 (9th Cir. 2011)
17 (exclusionary rule applies in civil removal proceedings only when the Fourth Amendment
18 violation is egregious). "The 'body' or identity of a defendant or respondent in a criminal or civil
19 proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that
20 an unlawful arrest, search, or interrogation occurred." *Lopez-Mendoza*, 468 U.S. at 1039; *see also*
21 *Stone v. Powell*, 428 U.S. 465, 485 (1976) (noting that "judicial proceedings need not abate when
22 the defendant's person is unconstitutionally seized" (*citing Gerstein v. Pugh*, 420 U.S. 103, 119
23 (1975); *Frisbie v. Collins*, 342 U.S. 519 (1952))); *Garcia-Beltran*, 443 F.3d at 1132 ("[T]here is
24 no sanction to be applied when an illegal arrest only leads to discovery of the man's identity."

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1 (quotation omitted)).

2 Accordingly, the extent that Petitioner seeks his release from custody based on the
3 allegedly unlawful arrest, there is no basis for the Court to grant such relief. *See, e.g.*, *Rodrigues*
4 *De Oliveira v. Joyce*, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) ("Petitioner's argument that
5 an illegal arrest automatically results in an illegal detention is misguided. . . . [E]ven if Petitioner's
6 initial arrest was unlawful, her detention pending removal may stand."); *Alonso-Portillo v. Bondi*,
7 2025 WL 2483393, at *11 (S.D. Ohio Aug. 28, 2025) ("Traditional application of the
8 exclusionary rule results in the suppression of evidence, as 'fruits of the poisonous tree,' obtained
9 in violation of the Fourth Amendment. But the rule does not, as Alonso-Portillo asserts here,
10 dictate his immediate release from detention."); *Marvan v. Slaughter*, 2025 WL 1940043, at *3-
11 4 (D. Mont. July 15, 2025) (petitioner could not obtain habeas relief on Fourth Amendment
12 violation where administrative removal proceedings had commenced); *H.N. v. Warden*, Stewart
13 Det. Ctr., 2021 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) ("even if the Court accepted
14 Petitioner's argument that his initial detention was somehow unlawful, he is still not entitled to
15 habeas relief."); *Medina v. U.S. Dep't of Homeland Sec.*, 2017 WL 1101370, at *1-2 (W.D. Wash.
16 Mar. 24, 2017) (immigration detainee was not entitled to habeas relief because "the remedy for
17 an unlawful arrest in violation of the Fourth Amendment is suppression of evidence," so if he
18 "desire[d] release from his current detention, his avenue for seeking such release should occur in
19 the context of his removal proceedings" (citations omitted)); *Amezcua-Gonzalez v. Lobato*, 2016
20 WL 6892934, at *2 (W.D. Wash. Oct. 6, 2016) (dismissing petition challenging immigration
21 detainee's arrest on Fourth Amendment grounds where detainee did not dispute that he was
22 subject to final order of removal, and his "only assertion [was] that he should be released because
23 his arrest violated the Fourth Amendment"; "even if petitioner's arrest amounts to an egregious
24 Fourth Amendment violation, he is not entitled to habeas relief"), report and recommendation

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adopted, 2016 WL 6892547 (W.D. Wash. Nov. 22, 2016); *Nyuwa v. Gurule*, 2014 WL 12984435, at *1 (D. Ariz. June 13, 2014) ("It is doubtful that Petitioner's arrest was unlawful. But even if it was, his allegedly unlawful arrest does not invalidate his current immigration detention because 'the "body" or identity of a defendant in a criminal or civil proceeding is never itself suppressible as the fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred.'" (*quoting Lopez-Mendoza*, 468 U.S. at 1039)).

D. Conclusion

Accordingly, this Court should deny Petitioner's habeas claims that his stop and arrest violated the Fourth and Fifth Amendments requiring his release. That said, if this Court were to grant Petitioner's habeas petition based on membership in the *Rodriguez Vazquez* Bond Denial Class, Petitioner will receive the alternative relief he requests in the form of receiving a bond hearing pursuant to 8 U.S.C. § 1226(a)). *See* Pet., Prayer for Relief. Therefore, the Court need not reach Petitioner's claim relating to the lawfulness of his stop and arrest, and that claim can be denied as moot.

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1 DATED this 29th day of December, 2025.

2 Respectfully submitted,

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11 I certify that this memorandum contains 2,350 words, in compliance with Local Civil Rules.

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