

1 Rene L. Valladares  
Federal Public Defender  
2 Nevada State Bar No. 11479  
3 \*Laura Barrera  
Assistant Federal Public Defender  
4 Michigan State Bar No. P80957  
411 E. Bonneville Ave., Ste. 250  
5 Las Vegas, Nevada 89101  
6 (702) 388-6577  
Laura\_Barrera@fd.org

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8 \*Attorney for Petitioner Jose Rojas-Lara

9  
10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 Jose Rojas-Lara,  
13 Petitioner,  
14 v.  
15 The United States of America, *et al.*,  
16 Respondents.

Case No. 2:25-cv-02544-RFB-EJY  
**Traverse**

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## POINTS AND AUTHORITIES

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2 As this Court indicated in the order to show cause, this case falls under this  
3 Court's prior decision in *Escobar Salgado v. Mattos*, No. 2:25-CV-01872-RFB-EJY,  
4 2025 WL 3205356 (D. Nev. Nov. 17, 2025).<sup>1</sup> Jose Rojas-Lara, a citizen of El Salvador,  
5 entered the United States on September 2, 2022, seeking asylum with his family.<sup>2</sup>  
6 Mr. Rojas-Lara had a credible fear interview and initially received a negative result,  
7 but an IJ vacated the negative decision and found Mr. Rojas-Lara had shown a  
8 credible fear of persecution that could entitle him to fear-based protection in the  
9 United States.<sup>3</sup> On December 20, 2022, ICE paroled Mr. Rojas-Lara from custody.<sup>4</sup>  
10 ICE did not serve Mr. Rojas-Lara with an Notice to Appear in immigration court until  
11 over two years later on July 23, 2025.<sup>5</sup>

12 After getting paroled, Mr. Rojas-Lara came to Las Vegas where he lived with  
13 his family until he was arrested by ICE two and a half years later on July 23, 2025.<sup>6</sup>  
14 Mr. Rojas-Lara sought release on bond in immigration court but the Immigration  
15 Judge (IJ) denied bond based on lack of jurisdiction because Mr. Rojas-Lara had been  
16 charged as an "arriving alien" under Section 235(b) of the Immigration and  
17 Nationality Act.<sup>7</sup>

18 This Court should grant the petition and order that Mr. Rojas-Lara be  
19 granted a bond hearing in immigration court. Mr. Rojas-Lara is amenable to  
20 receiving a ruling on the papers and is willing to waive a hearing, unless this Court  
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22 <sup>1</sup> ECF No. 6 at 1.

23 <sup>2</sup> ECF No. 16 at 4.

24 <sup>3</sup> ECF Nos. 16-1 at 4, 21-2.

25 <sup>4</sup> ECF Nos. 16-1 at 4, 16-2.

26 <sup>5</sup> ECF Nos. 16-3, 22 at 2

27 <sup>6</sup> ECF No. 16-1 at 3.

<sup>7</sup> ECF No. 16-4 at 2.

1 believes that Mr. Rojas-Lara has failed to establish that relief is warranted, in which  
2 case Mr. Rojas-Lara would appreciate the opportunity for oral argument.

3 **I. This Court should order that Mr. Rojas-Lara receive a bond hearing.**

4 Based on the documents Respondents have submitted to this Court, the  
5 situation here falls under this Court's decision in *Escobar Salgado*. Mr. Rojas-Lara  
6 was arrested by ICE two and a half years after he had entered the United States. He  
7 was not, at that point, an applicant for admission to the United States, nor were the  
8 ICE officers who arrested him "inspecting officers" inspecting Mr. Rojas-Lara upon  
9 request for admission. See 8 U.S.C. §§ 1225(b)(2)(A), (b)(4); §§1225(a)(3), (b)(1), (b)(2),  
10 (d). To the contrary, it is undisputed that Mr. Rojas-Lara was detained through a  
11 "targeted operation" by the Las Vegas Sub-Office of ICE Enforcement and Removal  
12 Operations, Salt Lake City.<sup>8</sup> As a result, Mr. Rojas-Lara cannot be detained as an  
13 "arriving alien" pursuant to §1225(b). *Escobar Salgado v. Mattos*, No. 2:25-CV-01872-  
14 RFB-EJY, 2025 WL 3205356, at \*14 (D. Nev. Nov. 17, 2025) ("the notion that an ICE  
15 officer conducting removal operations within the continental United States, far from  
16 any port of entry, is engaging in 'Inspection of Applicants for Admission' as  
17 contemplated in § 1225(b) contradicts the plain meaning of the text when placed in  
18 context of the overall Section and its headings.) "This distinction is critical because  
19 'aliens who have established connections in this country' have greater due process  
20 rights than 'an alien at the threshold of initial entry.'" *Id.* at \*16, quoting *Dep't of*  
21 *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

22 Just as it was for the petitioners *Escobar Salgado*, confining Mr. Rojas-Lara in  
23 mandatory detention pursuant to §1225(b) is unlawful under the INA and  
24 unconstitutional under the Due Process Clause. Mr. Rojas-Lara's detention is only  
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27 <sup>8</sup> ECF No. 16-1 at 3.

1 authorized under the discretionary detention authority of §1226(a). Accordingly, Mr.  
2 Rojas-Lara is entitled to a bond hearing.

3 **II. Respondents have not presented any persuasive arguments.**

4 Respondents' present an exhaustion argument that doesn't make sense. They  
5 argue that he has not exhausted his administrative remedies because he filed an  
6 appeal to the BIA less than a month ago.<sup>9</sup> But Mr. Rojas-Lara's BIA appeal concerns  
7 the merits of his removal case, not custody proceedings, which are separate from the  
8 merits of removability or relief from removal. Even if Respondents had argued that  
9 this claim has an administrative exhaustion problem because Mr. Rojas-Lara did not  
10 appeal the IJ's bond denial to the BIA, they would still be wrong. The failure to appeal  
11 does not preclude relief in this case. Administrative exhaustion is not required where  
12 it would be futile and here the BIA certainly would have applied *Matter of Q. Li*, 29  
13 I&N Dec. 66 (BIA 2025) and affirmed the IJ's decision. *Laing v. Ashcroft*, 370 F.3d  
14 994, 1000 (9th Cir. 2004).


15 Respondents also present a lengthy argument related to *Zadvydas* and  
16 detention under 8 U.S.C. 1231<sup>10</sup> but that is entirely irrelevant to this case. *Zadvydas*  
17 and § 1231 concern detention after a final order of removal. Here, Mr. Rojas-Lara is  
18 still in removal proceedings and detained pursuant to 1226(a). Finally, the facts of  
19 this case suggest that Respondents allegations that Mr. Rojas-Lara is   
20 member are not credible, and furthermore, they do not have any bearing on his  
21 eligibility for a bond hearing. The IJ's decision vacating the negative credible fear  
22 finding makes clear that Mr. Rojas-Lara's fears returning to El Salvador because the  
23 Salvadoran police *wrongly believe* he is a gang member.<sup>11</sup> If the U.S. government truly  
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25 <sup>9</sup> ECF No. 16 at 9.

26 <sup>10</sup> ECF No. 16 at 6–8.

27 <sup>11</sup> ECF No. 21-2 at 2–3.

1 believed Mr. Rojas-Lara was  they certainly would not have released him  
2 from custody and paroled him into the United States. Notably, the I-213 notes that  
3 Mr. Rojas-Lara has no criminal record.<sup>12</sup>

4 **III. Conclusion**

5 The petition should be granted. This Court should order that Mr. Rojas-Lara  
6 receive a bond hearing in immigration court.

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8 Dated January 16, 2026.

9 Respectfully submitted,

10 Rene L. Valladares  
11 Federal Public Defender

12 */s/ Laura Barrera*

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14 Laura Barrera  
15 Assistant Federal Public Defender

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<sup>12</sup> ECF No. 16-1 at 3.