

Judge Cartwright

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

SAMUEL CRUZ SANTIAGO and MARCO
PEREZ PEDROZA,

Petitioners,

v.

LAURA HERMOSILLO, Seattle Acting Field
Office Director, Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement (ICE); U.S. DEPARTMENT OF
HOMELAND SECURITY; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
BRUCE SCOTT,¹ Warden, Northwest ICE
Processing Center,

Respondents.

Case No. C25-2700-TMC

**FEDERAL RESPONDENTS'
RETURN MEMORANDUM**

Noted for Consideration:
December 31, 2025

Petitioners seek habeas relief from their mandatory immigration detention.

U.S. Immigration and Customs Enforcement (ICE) detains them pursuant to 8 U.S.C. § 1225(b).

Federal Respondents acknowledge that in *Rodriguez Vazquez v. Bostock*, this Court granted

¹ Bruce Scott is not a federal employee and is not represented by the undersigned in these proceedings. All other respondents, which are represented by the undersigned, are referred to as "Federal Respondents."

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*, 2025 WL 2782499 (W.D. Wash. Sep. 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*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

A. 8 U.S.C. § 1225(b)

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

Applicants for admission fall into one of two categories. Section 1225(b)(1) covers

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

6 Congress has determined that all noncitizens subject to Section 1225(b) are subject to
7 mandatory detention. Regardless of whether a noncitizen falls under Section 1225(b)(1) or
8 (b)(2), the sole means of release is “temporary parole from § 1225(b) detention ‘for urgent
9 humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.
10 Further, several provisions at 8 U.S.C. § 1252 preclude review. First, 8 U.S.C. § 1252(g) bars
11 review of Petitioners’ claims because they arise from the government’s decision to commence
12 removal proceedings. Second, 8 U.S.C. § 1252(b)(9) bars the Court from hearing Petitioners’
13 claims because their claims challenge the decisions and actions to detain them, which arises from
14 the government’s decision to commence removal proceedings, thus an “action taken . . . to
15 remove an alien from the United States.” Third and lastly, 8 U.S.C. § 1252(e)(3) applies and
16 limits “[j]udicial review of determinations under section 1225(b) of this title and its
17 implementation.” The plain language of the statute precludes judicial review for noncitizens
18 determined to be detained pursuant to Section 1225(b)(2) and applies to a “determination under
19 section 1225(b)” and to its implementation.

20 B. *Rodriguez Vazquez* Bond Denial Class Membership

21 Through this habeas action, Petitioners seek relief as members of the Bond Denial Class
22 in *Rodriguez Vazquez*. Again, Federal Respondents do not agree with the *Rodriguez Vazquez*
23 decision. Alternatively, they do not oppose Petitioners being considered members of the
24

Rodriguez Vazquez Bond Denial Class for purposes of this litigation.

CONCLUSION

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

CERTIFICATION

I certify that this memorandum contains words, 690 words in compliance with Local Civil Rule LCR 7(e)(3).

DATED this 30th day of December, 2025.

Respectfully submitted,

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s/ Brian C. Kipnis

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