

District Judge John H. Chun

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

MARIO CRUZ BERNABE,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

Case No. 2:25-cv-02709-JHC

RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
January 20, 2026

Petitioner seeks habeas relief from immigration detention. U.S. Immigration and Customs Enforcement ("ICE") detains him pursuant to 8 U.S.C. § 1225(b). In the Amended Habeas Petition (Dkt. No. 17), Petitioner asserts that he is a *Rodriguez Vasquez* Bond Denial Class¹ member, rendering his mandatory detention pursuant to Section 1225(b) unlawful. *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). The Government has appealed *Rodriguez Vazquez*. *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, Dkt. 71. Additionally, in *Maldonado Bautista v. Santacruz*, the district court found the same

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.

1 as *Rodriguez Vasquez* and extended declaratory relief to a similarly defined and certified
2 nationwide Bond Eligible Class. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-
3 BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

4 While Respondents do not agree with the *Rodriguez Vazquez* decision, they agree that
5 Petitioner will be a member of the *Rodriguez Vazquez* Bond Denial Class for purposes of this
6 litigation once he seeks a bond redetermination hearing with the immigration court. Thus, while
7 Petitioner asserts other allegations in the initial petition (Dkt. No. 1) – which are not conceded by
8 the filing of this Return, Respondents believe that this case may be addressed solely on the
9 *Rodriguez Vasquez* issue.

10 BACKGROUND

11 A. 8 U.S.C. § 1225(b)

12 While acknowledging the decisions in *Rodriguez Vazquez* and *Maldonado*, Respondents
13 continue to believe Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b).
14 *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb. Sept. 30, 2025)
15 (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*, --- F. Supp. 3d
16 ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same). Noncitizens who are apprehended
17 shortly after illegally crossing the border and who are determined to be inadmissible due to lacking
18 a visa or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may be removed pursuant to an
19 expedited removal order unless they express an intention to apply for asylum or a fear of
20 persecution in their home country. 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of these
21 provisions is to expedite the removal from the United States of aliens who indisputably have no
22 authorization to be admitted to the United States, while providing an opportunity for such an alien
23 who claims asylum to have the merits of his or her claim promptly assessed by officers with full
24

1 professional training in adjudicating asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d
2 Sess. 209 (1996).

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

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

13 **B. Petitioner Cruz Bernabe**

14 Petitioner entered the United States at an unknown time and at an unknown place. Lambert
15 Decl., Ex. A, Notice to Appear. ICE detained him on December 26, 2025. Lambert Decl., Ex. B,
16 Form I-213. He was issued a notice to appear charging him as removable pursuant to 8 U.S.C.
17 § 1182(a)(6)(A)(i) and placing him in removal proceedings with the immigration court. Lambert
18 Decl., Ex. A. As stated in the Amended Petition, Petitioner will be seeking a bond hearing with
19 the immigration court. Once that occurs, Respondents acknowledge that he will meet the
20 definition of the *Rodriguez Vasquez* Bond Denial Class.

21 If this Court were to grant the habeas petition, the appropriate relief would be for Petitioner
22 to be released upon payment of an alternative bond amount, if any, ordered by the immigration
23 court at a bond hearing requested by Petition, which would be consistent with the finding in
24 *Rodriguez Vasquez*.

1 DATED this 8th day of January, 2026.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
4 United States Attorney

5 s/ Michelle R. Lambert

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15 *Attorneys for Respondents*

16 *I certify that this memorandum contains 763 words,*
17 *in compliance with the Local Civil Rules*