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

VALDEMAR TZINTZUN-HERNANDEZ,

Petitioner,

v.

KRISTI NOEM, Secretary for the Department
of Homeland Security; TODD LYONS, Acting
Director, Immigration and Customs
Enforcement; LAURA HERMOSILLA, Field
Office Director, Immigration and Customs
Enforcement Seattle Field Office; BRUCE
SCOTT, Warden, Northwest ICE Processing
Center,

Respondents.

Case No. 2:25-cv-02752

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner, Mr. Vlademar Tzintzun-Hernandez, submits a petition for writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 2670875 (C.D. Cal. Nov. 25, 2025) and that certified in *Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, --- F. Supp. 3d ---, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). He is in the physical custody of federal Respondents, is detained the Northwest ICE Processing Center, and faces unlawful detention as the Department of Homeland Security (“DHS”) and the Executive Office for Immigration Review (“EOIR”) have refused to abide by the declaratory judgments issued on behalf of the certified classes in both *Bautista* and *Vazquez*.

2. On May 2, 2025, this Court certified the Bond Denial Class in *Vazquez*. *See* 349 F.R.D. 333, 365 (W.D. Wash. May 2, 2025) (certifying Plaintiffs-Petitioners’ proposed Bond Denial Class, identical to that in *Bautista* but limited to detainees held at the Northwest ICE Processing Center). The Court later granted partial summary judgment to the *Vazquez* plaintiffs, uniformly finding bond jurisdiction under 8 U.S.C. § 1226(a) for persons 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. *Vazquez*, 2025 WL 2782499, at *86-87 (W.D. Wash. Sept. 30, 2025).

3. Similarly, on November 20, 2025, the U.S. District Court for the Central District of California granted partial summary judgment on behalf of individual plaintiffs. On November 25, 2025, it certified a nationwide class and extended declaratory judgment to the certified class. *Bautista v. Santacruz*, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting

1 partial summary judgment to named Plaintiffs-Petitioners); *Bautista v. Santacruz*, 2025 WL
2 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed
3 nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order
4 Granting Petitioners' Motion for Partial Summary Judgment).

5 4. Both declaratory judgments hold that Bond Denial Class members are detained
6 under 8 U.S.C. § 1226(a) and may not be denied consideration for release on bond under §
7 1225(b)(2)(A).

8 5. Although *Vazquez* is now being considered on appeal, a District Court decision
9 remains in full force and effect until a stay is issued by the Ninth Circuit. *Nat'l Grange of the*
10 *Order of Patrons and Husbandry v. Cal. State Grange*, 182 F. Supp. 3d 1065, 1074 (E.D. Cal.
11 2016); *in re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1364 (9th Cir. 1987) ("Absent a
12 stay, all orders and judgments of courts must be complied with promptly"). The order of
13 September 30, 2025 is therefore enforceable and should apply to any qualifying Bond Denial
14 Class Member; nonetheless, the Immigration Courts and DHS have refused to abide by the
15 declaratory relief ordered and have unlawfully held that those in Petitioner's position should be
16 denied the opportunity for a release on bond.

17 6. Petitioner is a member of the Bond Eligible Classes, as he:

- 18 a. Does not have lawful status in the United States and is currently held in
19 administrative detention at the Northwest ICE Processing Center.
20 b. Last entered the United States without inspection about twenty-three years ago
21 and was not apprehended upon arrival, *cf. id.*; and
22 c. Is not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.
23

1 7. After apprehending Petitioner on December 29, 2025, the DHS served a Notice to
2 Appear placing him into removal proceedings pursuant to 8 U.S.C. § 1229a. The Department has
3 charged him as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a person who entered
4 the United States without inspection and an unknown date and time.

5 8. Respondents are bound by the judgments in *Bautista* and *Vazquez*, as they have
6 the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Despite this, they continue to
7 defy the judgments and subject Petitioner to unlawful detention, despite his clear entitlement to
8 consideration for release as a Bond Eligible Class member.

9 9. Immigration judges have recently informed class members in bond proceedings
10 that they have been instructed by “leadership” that the district court orders are not controlling,
11 even with respect to said class members, and that EOIR remains bound to follow the Department
12 of Justice’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

13 10. Because Respondents are detaining Petitioner in violation of these declaratory
14 judgments, this Court should accordingly order that, within one day, the DHS must release
15 Petitioner.

16 11. Alternatively, the Court should order Petitioner’s release unless Respondents
17 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

18 12. The Court should expeditiously grant the petition.

19
20 **PARTIES**

21 12. Petitioner is a citizen of Mexico who has been held in immigration detention since
22 December 29, 2025. After he was arrested by DHS agents in Oregon, the Immigration and
23

1 Customs Enforcement (“ICE”) Portland Field Office did not set a bond for his release. Petitioner
2 has continuously resided in the United States since approximately January of 2002.

3 13. Respondent, Ms. Kristi Noem, is the Secretary of the Department of Homeland
4 Security. She is responsible for the implementation and enforcement of the Immigration and
5 Nationality Act (“INA”) and oversees ICE, the agency responsible for Petitioner’s detention.
6 Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

7 14. Respondent, Mr. Todd Lyons, is sued in his official capacity as the Acting
8 Director of ICE, which is responsible for all immigration enforcement in the United States.

9 15. Respondent, Ms. Laura Hermosilla, is the Director of the Seattle ICE Field Office.
10 As such, Ms. Hermosilla is Petitioner’s immediate custodian. She is responsible for the
11 apprehension, detention, and removal of noncitizens located within her jurisdiction, and is named
12 in her official capacity.

13 16. Respondent, Mr. Bruce Scott, is sued in his official capacity as warden of the
14 Northwest ICE Processing Center, the privately-operated immigration detention facility where
15 Petitioner is being held in custody. He exercises direct custody over Petitioner.

16
17 **JURISDICTION**

18 17. This action arises under the Constitution of the United States and the Immigration
19 and Nationality Act. 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993)
20 (affording immigrants Due Process under the Fifth Amendment to the federal constitution).

21 18. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
22 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United
23 States Constitution (the Suspension Clause).

19. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

20. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Washington as it is the judicial district where Petitioner currently is detained.

21. Venue is also properly with this Court under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to this petition have occurred in the Western District of Washington.

REQUIREMENTS OF 28 U.S.C. §§ 2243, 2241

22. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues at hand have already been resolved for class members through *Maldonado*. *See also* 28 U.S.C. § 2243.

23. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

24. Petitioner is “in custody” for purposes of § 2241 because he is currently detained at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly held that the in-custody requirement [of 28 U.S.C. § 2241] is met where the Government restricts a petitioner’s freedom of action or movement,” including through an immigration order of supervision. *See Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), citing *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

25. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

26. As a member of both the Bond Eligible Class in *Bautista* and the Bond Denial Class in *Vazquez*, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

27. The order granting partial summary judgment in *Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members such as Petitioner. Yet, the Tacoma Immigration Court has continued to deny bond jurisdiction to all illegal entrants into the United States, now citing reliance upon the Board of Immigration Appeal’s (“BIA’s”) decision in *Matter of Yajure Hurtado*, *supra*.

28. The Tacoma Immigration Court in fact began denying bond jurisdiction to all illegal entrants around 2022, years before the BIA fashioned precedent to support its position on this matter. Despite the decision in *Bautista*, and this Court’s similar ruling in *Vasquez*, the

1 Tacoma Immigration Court continues to deny bond jurisdiction for members of the Bond
2 Eligible Class.

3 29. The order granting class certification in *Bautista* further states that “[w]hen
4 considering this determination with the MSJ Order, the Court extends the same declaratory relief
5 granted to Petitioners to the Bond Eligible Class as a whole.”

6 30. Respondents are parties to both *Bautista* and *Vazquez*, and are bound by the
7 Court’s declaratory judgments, which have the full “force and effect of a final judgment.” 28
8 U.S.C. § 2201(a).

9 31. By denying Petitioner a bond hearing under 8 U.S.C. § 1226(a) and asserting that
10 he is subject to mandatory detention under § 1225(b)(2), the Respondents will not only violate
11 his statutory rights under the INA, but also the District Court’s judgments in *Bautista* and
12 *Vazquez*.

13 COUNT TWO

14 Violation of the Fifth Amendment to the U.S. Constitution

15 (Right to Procedural Due Process)

16 32. Petitioner restates and realleges all paragraphs as if fully set forth here.

17 33. The Due Process Clause of the Fifth Amendment prohibits the federal
18 government from depriving any person of “life, liberty, or property, without due process of
19 law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States,
20 including [non-citizens], whether their presence here is lawful, unlawful, temporary, or
21 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2011).

22 34. Due process requires that government action be rational and non-arbitrary. *See*
23 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

35. By flagrantly defying the U.S. District Court's orders – as it has been directed to, pursuant to a DHS memorandum dated July 8, 2025¹ – Respondents will violate Petitioner's right to procedural due process.

COUNT THREE

Violation of the Fifth Amendment to the U.S. Constitution

(Right to Counsel)

36. Upon information and belief, the Department of Homeland Security may intend to move Respondent to a remote facility hundreds of miles away from Tacoma, Washington. Counsel can attest that many other noncitizens held in Tacoma have been moved in this manner, due to issues with overcrowding at the Northwest ICE Processing Center. This action would make communication with, and representation by, local and trusted counsel extremely difficult.

37. The constitutional right to counsel includes the ability to communicate effectively with one's attorney and to prepare a defense. 8 U.S.C. § 1362; *Usabakunov v. Gonzales*, 16 F.4th 1299, 1304-1305 (9th Cir. 2021); *Gomez-Velazco v. Sessions*, 879 F.3d 989,993 (9th Cir. 2018).

38. The Ninth Circuit has found that transferring detainees to remote locations without notifying their attorney or providing access to legal representation is a violation of the right to counsel. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565-66 (9th Cir. 1990); *see also Innovation Law Lab v. Nielsen*, 342 F.Supp.3d 1067, 1080 (D. Or. 2018).

39. Transferring Petitioner outside of this judicial district, while he is pursuing a petition for writ of habeas corpus, would constitute a violation of the Fifth Amendment Right to Counsel.

¹ See Exh. "A," attached.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
- e. Issue an Order prohibiting Respondents from transferring Petitioner outside of the Northwest ICE Processing Center, without first providing the Court, Petitioner, and Petitioner's counsel notice of the transfer within 48 hours' notice; and
- f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

Dated: December 31st, 2025

s/ Benjamin Cornell
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VERIFICATION OF PETITIONER

On behalf of Valdemar Tzintzun-Hernandez, the party in custody, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Mr. Tzintzun-Hernandez has not verified the petition himself as he is currently held in ICE custody.

Dated: December 31st, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys
Email: usawaw.habeas@usdoj.gov

Dated: December 31st, 2025

s/ Benjamin Cornell
Benjamin Cornell, WSB #49533