

The Honorable Tiffany M. Cartwright

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

VALDEMAR TZINTZUN-HERNANDEZ,

Petitioner,

v.

KRISTI NOEM, Secretary of U.S. Department
of Homeland Security; TODD LYONS, Acting
Director, Immigration and Customs
Enforcement; LAURA HERMOSILLO, Acting
Director, United States Department of
Homeland Security Enforcement and Removal
Office Seattle; BRUCE SCOTT, Warden,
Northwest Immigration and Customs
Enforcement Processing Center,

Respondents.

Case No. 2:25-cv-02752-TMC

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Petitioner Valdemar Tzintzun-Hernandez 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. 25-5240-TMC, 2025 WL

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 2782499 (W.D. Wash. Sept. 30, 2025). That decision is presently on appeal. *Rodriguez Vazquez*,
2 25-5240-TMC, Dkt. 71. Additionally, in *Maldonado Bautista v. Santacruz*, the district court found
3 the same and extended declaratory relief to a similarly defined and certified nationwide Bond
4 Eligible Class. *See Maldonado Bautista v. Santacruz*, No. 25-1873-SSS-BFM, 2025 WL 3288403
5 (C.D. Cal. Nov. 25, 2025). That case is also on appeal. *Maldonado Bautista*, No. 25-1873-SSS-
6 BFM, Dkt. 95.

7 **A. 8 U.S.C. § 1225(b)**

8 While acknowledging the Court's decision in *Rodriguez Vazquez* and *Maldonado Bautista*,
9 Federal Respondents continue to believe Petitioners are subject to mandatory detention pursuant
10 to 8 U.S.C. § 1225(b). *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb.
11 Sept. 30, 2025) (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*,
12 --- F. Supp. 3d ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same). Noncitizens who are
13 apprehended shortly after illegally crossing the border and who are determined to be inadmissible
14 due to lacking a visa or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may be removed
15 pursuant to an expedited removal order unless they express an intention to apply for asylum or a
16 fear of persecution in their home country. 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii)(II). "The purpose of
17 these provisions is to expedite the removal from the United States of aliens who indisputably have
18 no authorization to be admitted to the United States, while providing an opportunity for such an
19 alien who claims asylum to have the merits of his or her claim promptly assessed by officers with
20 full professional training in adjudicating asylum claims." H.R. Conf. Rep. No. 828, 104th Cong.,
21 2d Sess. 209 (1996).

22 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers
23 noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
24 documentation, and certain other noncitizens designated by the Attorney General in her discretion.

1 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
 2 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
 3 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

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

18 **B. Petitioner Valdemar Tzintzun-Hernandez**

19 Through this habeas action, Petitioner seeks relief as a member of the Bond Denial Class
 20 in *Rodriguez Vazquez*.² Again, Federal Respondents do not agree with the *Rodriguez Vazquez*
 21 decision. Nevertheless, although Petitioner does not indicate if he has requested a bond hearing,
 22

23 ² “Bond Denial Class: All noncitizens without lawful status detained at the Northwest ICE Processing Center who
 24 (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 Vazquez*, 2025 WL 2782499, at *6.

1 Federal Respondents do not oppose Petitioner being considered a member of the *Rodriguez*
2 *Vazquez* Bond Denial Class for purposes of this litigation. If the Court were to grant the habeas
3 petition, the appropriate relief is not release. Rather, this Court should order the Immigration Judge
4 to provide Petitioner a bond hearing pursuant to 8 U.S.C. § 1226(a), consistent with the Court's
5 judgment in *Rodriguez Vazquez*, 2025 WL 2782499, at *27.

6 DATED this 7th day of January, 2026.

7 Respectfully submitted,

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16 *I certify that this memorandum contains 794 words*
17 *in compliance with the Local Civil Rules*