

Magistrate Judge Grady J. Leupold

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

ALEXANDER JIMENEZ-GIL,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:26-cv-00002-GJL

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for consideration on:
January 26, 2026

Pursuant to this Court's Order (Dkt. No. 2), Federal Respondents submit the following factual background as contained in the records of Petitioner Alexander Jimenez-Gil's immigration case, as well as the relevant detention authority.

I. DETENTION AUTHORITY

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, a petitioner must demonstrate that

¹ Respondent Bruce Scott is not a federal official and is not represented by undersigned counsel.

1 he is being held in custody in violation of the Constitution, laws, or treaties of the United States.
2 See 28 U.S.C. § 2241(c)(3).

3
4 **A. Detention under 8 U.S.C. § 1225(b)**

5 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the
6 Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.”
7 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); see also *Dep’t of Homeland Sec. v. Thuraissigiam*,
8 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims
9 and expeditiously removing the aliens making such claims from the country.”). Section 1225
10 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in
11 the United States who [have] not been admitted” or noncitizens “who arrive[] in the United
12 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for
13 admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by
14 § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S.
15 281, 287 (2018); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

16 Relevant here, Section 1225(b)(2) is “broader” and “serves as a catchall provision.”
17 *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).”
18 *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to
19 mandatory detention pending full removal proceedings “if the examining immigration officer
20 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be
21 admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens “be detained for a proceeding
22 under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or
23 aliens arriving in and seeking admission into the United States who are placed directly in full
24

1 removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
2 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

3 The sole means of release from detention pursuant to Section 1225(b) is temporary parole
4 ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583
5 U.S. at 283. This parole terminates automatically at the expiration of the time for which parole
6 was authorized, or upon service of a charging document for either expedited removal proceedings
7 under Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1);
8 (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time
9 of parole. *See id.*

10 **B. Detention under 8 U.S.C. § 1226(a)**

11 Section 1226(a) provides for the arrest and detention of noncitizens “pending a decision on
12 whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under Section
13 1226(a), U.S. Department of Homeland Security (“DHS”) may, in its discretion, detain a
14 noncitizen during his removal proceedings, release him on bond, or release him on conditional
15 parole.² By regulation, immigration officers can release a noncitizen if he demonstrates that he
16 “would not pose a danger to property or persons” and “is likely to appear for any future
17 proceeding.” 8 C.F.R. § 236.1(c)(8). A noncitizen can also request a custody redetermination
18 (i.e., a bond hearing) by an immigration judge at any time before a final order of removal is issued.
19 *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody
20 redetermination, the immigration judge may continue detention or release the noncitizen on bond
21 or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). Immigration judges have
22

23 ² Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled into the United States
24 under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007) (holding
that because release on “conditional parole” under § 1226(a) is not a parole, the alien was not eligible for adjustment
of status under § 1255(a)).

1 broad discretion in deciding whether to release a noncitizen on bond. *In re Guerra*, 24 I. & N.
2 Dec. 37, 39-40 (BIA 2006) (listing nine factors for immigration judges to consider).

3
4
5 **C. Discretionary Release from Detention**

6 Aliens may obtain discretionary release from detention on an order of release on
7 recognizance (“OREC”) pursuant to 8 C.F.R. § 1236.1(c)(8). The regulation provides that “[a]ny
8 officer authorized to issue a warrant of arrest may, in the officer’s discretion, release an alien . . .
9 provided that the alien must demonstrate to the satisfaction of the officer that such release would
10 not pose a danger to property or persons, and that the alien is likely to appear for any future
11 proceeding.” Section 236.1(c)(9) provides for the revocation of such release: “When an alien who,
12 having been arrested and taken into custody, has been released, such release may be revoked at
13 any time in the discretion of the district director, acting district director, deputy district director,
14 assistant district director for investigations, assistant district director for detention and deportation,
15 or officer in charge (except foreign), in which event the alien may be taken into physical custody
16 and detained.”

17 There is no statutory or regulatory requirement for a hearing before an individual is re-
18 detained, and the Supreme Court has warned courts against reading additional procedural
19 requirements into the Immigration and Nationality Act. *See Johnson v. Arteaga-Martinez*, 596
20 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. §
21 1231(a)(6) because “reviewing courts . . . are generally not free to impose [additional procedural
22 rights] if the agencies have not chosen to grant them”) (quoting *Vermont Yankee Nuclear Power*
23 *Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)).

1 Federal Respondents acknowledge that district courts have recently decided that the
2 revocation of an OREC requires a pre-detention hearing to determine if that noncitizen is a flight
3 risk or a danger to the community. *See, e.g., E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL
4 2402130, at *5 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, No. 2:25-CV-01723,
5 2025 WL 2637663, at *2-4 (W.D. Wash. Sept. 12, 2025). Respectfully, these decisions
6 erroneously conflate 8 C.F.R. § 1236.1(c)(9) and 8 C.F.R. § 1236.1(c)(8). *See id.* (imposing a
7 determination set forth in Section (c)(8) into the discretionary determination of revoking an OSUP
8 in Section (c)(9)). Both Sections provide that the decisions to release or revoke are discretionary.
9 But Section 1231(c)(8) includes language requiring the officer to decide that the alien “would not
10 pose a danger to property or persons, and that the alien is likely to appear for any future
11 proceeding.” In contrast, Section 1231(c)(9) does not require such a determination and specifically
12 provides that “release may be revoked at any time.”

13 II. FACTUAL BACKGROUND

14 Petitioner is a citizen of Venezuela who entered the United States without inspection or
15 parole in October of 2021, and was apprehended by DHS shortly thereafter. Reed Decl., ¶¶ 4-5;
16 Lambert Decl., Ex. A, Form I-213; Ex. B, Warrant for Arrest. DHS issued Petitioner a notice to
17 appear charging him as removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). Reed Decl., ¶ 5;
18 Lambert Decl., Ex. C, Notice to Appear. Petitioner was released on an OREC. Reed Decl., ¶ 6;
19 Lambert Decl., Ex. D, OREC.

20 While on release, Petitioner applied for an immigration benefit with U.S. Citizenship and
21 Immigration Services (“USCIS”). Reed Decl., ¶ 7. Due to this application, the immigration judge
22 dismissed Petitioner’s immigration case without prejudice in July 2024. *Id.*, ¶ 8; Lambert Decl.,
23 Ex. E, Order of the Immigration Judge. USCIS terminated Petitioner’s immigration benefit
24 application on or about November 19, 2025. Reed Decl., ¶ 9

On November 20, 2025, ICE arrested Petitioner in Portland, Oregon. Reed Decl., ¶ 10; Lambert Decl., Ex. F, Form I-213; Ex. G, Warrant for Arrest. DHS issued him a new notice to appear charging him as removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). Lambert Decl., Ex. H, Notice to Appear. His OREC was cancelled on January 16, 2026. Reed Decl., ¶ 11.

On January 5, 2026, the immigration judge denied Petitioner's request for bond due to lack of jurisdiction. Reed Decl., ¶ 13; Lambert Decl., Ex. I, Order of the Immigration Judge. The immigration judge held that Petitioner was held pursuant to mandatory detention under 8 U.S.C. § 1225(b). Lambert Decl., Ex. I. Petitioner is next scheduled for a master calendar hearing on January 27, 2026. Reed Decl., ¶ 14.

III. CONCLUSION

In further response to Dkt. 2, Respondents do not believe that an evidentiary hearing is necessary.

DATED this 20th day of January, 2026.

Respectfully submitted,

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I certify that this memorandum contains 1,498 words, in compliance with the Local Civil Rules.