

District Judge Richard A. Jones

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

DIONELIS JOSE LOPEZ CAMACHO,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. 2:26-cv-00925-RAJ

RESPONDENT'S RETURN

Noted for Consideration:
April 13, 2026

I. INTRODUCTION

This Court should deny the Petition for Writ of Habeas Corpus, Dkt. 3 ("Pet."). U.S. Immigration and Customs Enforcement ("ICE") mandatorily detains Petitioner Dionelis Jose Lopez Camacho pursuant to 8 U.S.C. § 1225(b) during his removal proceedings. Petitioner is subject to mandatory detention his detention is not prolonged because he has only been detained for four months during his removal proceedings, and Petitioner has received two bond hearings, in which he had been denied bond both times and he did not appeal these rulings. Therefore, he has failed to exhaust his administrative remedies before asking this Court to order another bond hearing.

1 Accordingly, Respondent respectfully requests that the Court deny the Petition. This
2 return is supported by the pleadings and documents on file in this case, the Declaration of
3 Deportation Officer Enrique Rodriguez ("Rodriguez Decl."), and the Declaration of Jennifer
4 Wong ("Wong Decl."), with accompanying exhibits.

5 II. BACKGROUND

6 A. Petitioner Dionelis Jose Lopez Camacho

7 Petitioner is a native and citizen of Venezuela, who was encountered by Customs and
8 Border Protection ("CBP") near the Rio Grande Valley, Texas on December 29, 2022. Rodriguez
9 Decl. ¶ 4; Wong Decl. at Ex. 1 (Form I-213). He admitted to intentionally crossing into the United
10 States without documentation and was transported to the Rio Grande Valley Sector Centralized
11 Processing Center for additional processing. Rodriguez Decl. ¶ 4. On the same day, Petitioner
12 was served a Notice to Appear, charging him as removable under Immigration and Nationality
13 Act ("INA") § 212(a)(6)(A)(i), 8 U.S.C. § 212(a)(6)(A)(i). Rodriguez Decl. ¶ 5; Wong Decl. at
14 Ex. 2 (Notice to Appear). He was released on an Order of Release on Recognizance ("OREC").
15 Rodriguez Decl. ¶ 6; Wong Decl. at Ex. 3 (OREC).

16 Petitioner failed to meet his reporting requirements over the course of 2023 to 2025.
17 Rodriguez Decl. ¶ 7. As a result, Petitioner's OREC was revoked on December 17, 2025.
18 Rodriguez Decl. ¶ 8; Wong Decl. at Ex. 4 (Cancellation of OREC).

19 Petitioner has received two bond hearings while in removal proceedings. On February 11,
20 2026, and the Immigration Judge ("IJ") denied bond for lack of jurisdiction. Rodriguez Decl. ¶ 9;
21 Wong Decl. at Ex. 5 (Bond Order from February 2026). Petitioner filed a motion to reconsider
22 and an IJ held a second bond hearing on March 18, 2026. Rodriguez Decl. ¶ 11. The IJ again
23 denied bond for lack of jurisdiction. Rodriguez Decl. ¶ 11; Wong Decl. at Ex. 5 (Bond Order from
24 March 2026).

1 Petitioner's merits hearing was held on March 25, 2026. Rodriguez Decl. ¶ 10. This
2 hearing was initially scheduled for February 24, 2026, but was rescheduled because Petitioner
3 filed a motion to continue. *Id.* Petitioner was ordered removed to Venezuela, and his applications
4 for asylum, withholding of removal under the INA, and withholding under Convention Against
5 Torture ("CAT") were denied. Rodriguez Decl. ¶ 10; Wong Decl. at Ex. 5 (Order of Removal).
6 Petitioner reserved appeal, but no appeal has been filed with the BIA at this time. *Id.* ¶ 12. The
7 deadline to file a timely appeal is April 24, 2026. *Id.*

8 **B. Legal Background**

9 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the
10 Executive could "expedite removal of aliens lacking a legal basis to remain in the United States."
11 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*,
12 591 U.S. 103, 106 (2020). Section 1225 applies to "applicants for admission" to the United States,
13 who are defined as "[a]n alien present in the United States who has not been admitted or who
14 arrives in the United States (whether or not at a designated port of arrival and including an alien
15 who is brought to the United States after having been interdicted in international or United States
16 waters)." 8 U.S.C. § 1225(a)(1). Applicants for admission "fall into one of two categories, those
17 covered by § 1225(b)(1) and those covered by § 1225(b)(2)," both of which are subject to
18 mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Yajure Hurtado*,
19 29 I&N Dec. 216 (BIA 2025).

20 Under Section 1225(b)(2), a noncitizen "who is an applicant for admission" is subject to
21 mandatory detention pending full removal proceedings "if the examining immigration officer
22 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be
23 admitted." 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens "be detained for a
24 proceeding under section 1229a of this title"); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025)

1 (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in
2 full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
3 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

4 III. JURISDICTION AND STANDARD OF REVIEW

5 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
6 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
7 *Corp. v. Allopach Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
8 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
9 day.” *Thuraissigiam*, 591 U.S. at 125 n.20.

10 Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas
11 petitions. To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that
12 his or her custody is in violation of the Constitution, laws, or treatises of the United States. *See*
13 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004); *Snook v.*
14 *Wood*, 89 F.3d 605, 609 (9th Cir. 1996).

15 IV. ARGUMENT

16 A. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b).

17 Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2) and is subject to
18 mandatory detention while his removal proceedings remain pending. Section 1225(b)(2) states
19 that, subject to statutory exceptions, “in the case of an alien who is an applicant for admission, if
20 the examining immigration officer determines that an alien seeking admission is not clearly and
21 beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section
22 1229a [full removal proceedings] of this title.” 8 U.S.C. § 1225(b)(2). In other words, noncitizens
23 subject to section 1225(b)(2) are not eligible for expedited removal but are subject to mandatory
24 detention while their full removal proceedings are pending. This is in contrast to the default

1 detention regime under Section 1226(a), which allows for discretionary release and review of
2 detention through bond hearings.

3 As a noncitizen who has not been admitted or paroled into the United States and is
4 awaiting removal, Petitioner's detention is statutorily mandated. Petitioner's OREC was revoked
5 on December 17, 2025, because he failed to meet his reporting requirements over the course of
6 2023 to 2025. Rodriguez Decl. ¶ 7; Wong Decl. at Ex. 4. He was ordered removed to Venezuela
7 on March 26, 2026, and has not yet filed an appeal with the BIA. Rodriguez Decl. ¶ 12. The
8 deadline for the filing of an appeal to the order of removal is April 24, 2026. *Id.*

9 As the Fifth Circuit recently found, aliens who are present without admission in the United
10 States are "applicants for admission" as defined in Section 1225(a)(1). *Buenrostro-Mendez v.*
11 *Bondi*, 166 F.4th 494, 502 (5th Cir. 2026). The court clarified that an "applicant for admission"
12 is a person "seeking admission" regardless of whether that person is actively engaged in
13 admissions procedures when detained. *Id.* at 502-06. Here, Petitioner is a noncitizen who is
14 present in the United States without admission, and therefore subject to 8 U.S.C. § 1225(b)(2)(A).

15 Accordingly, Petitioner's detention remains lawful as he is mandatorily detained pursuant
16 to 8 U.S.C. § 1225(b).

17 **B. Petitioner's detention is not prolonged under *Banda*.**

18 Petitioner's detention without a court-ordered bond hearing does not violate his Fifth
19 Amendment due process rights. Courts in this District have recognized that "[n]ormally,
20 noncitizens covered by § 1225(b)(1) are subject to an expedited removal process that does not
21 include a hearing before an IJ or review of the removal order." *Nguyen v. Scott*, 2:25-cv-01988-
22 SKV, Dkt. 15, pgs. 3-4 (citing *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-12 (W.D. Wash.
23 2019) (citing 8 U.S.C. § 1225(b)(1)(A)(i))). Both § 1225(b)(1) and § 1225(b)(2) mandate
24 detention of noncitizens for the entirety of the applicable proceedings. *Id.* (citing *Jennings*, 583

1 U.S. at 302). And the “statute does not impose ‘any limit on the length of detention’ pending a
2 decision on the asylum application and does not authorize bond hearings or release on bond.” *Id.*
3 (citing *Banda*, 385 F. Supp. 3d at 1112 (quoting *Jennings*, 583 U.S. at 296)).

4 Courts in this District have also noted that both the Supreme Court and Ninth Circuit have
5 “grappled . . . with whether the various immigration detention statutes may authorize indefinite
6 or prolonged detention of detainees and, if so, may do so without providing a bond hearing.” *Id.*
7 (quoting *Rodriguez v. Robbins*, 804 F.3d 1060, 1067 (9th Cir. 2015) (citing *Toktosunov v.*
8 *Wamsley*, 2:25-cv-01724-TL, 2025 WL 3492858, at *2-4 (W.D. Wash. Dec. 5, 2025)).

9 While neither the Supreme Court nor the Ninth Circuit has settled on a test for assessing
10 the constitutionality of prolonged mandatory detention, Courts in this District apply the “*Banda*”
11 test in determining whether a noncitizen’s detention under § 1225(b) violates due process. *Id.*
12 (citing *Banda*, 385 F. Supp. 3d at 1106; *Maliwat v. Scott*, 2:25-cv-00788, 2025 WL 2256711, at
13 *3 (W.D. Wash. Aug. 7, 2025); *Hong v. Mayorkas*, 2:20-cv-01784-LK, 2022 WL 1078627, at
14 *4-5 (W.D. Wash. Apr. 11, 2022)).

15 In *Banda*, the Court found “unreasonably prolonged detention under § 1225(b) without a
16 bond hearing violates due process.” *Banda*, 385 F. Supp. 3d at 1106, 1117. The Court declined to
17 adopt a rule that detention became unreasonably prolonged at six months, explaining that,
18 pursuant to *Zadvydas*, “at six months, the burden is on the detainee—not the government—to
19 establish a basis for release[.]” and found such a rule would be “inconsistent with the fact-
20 dependent nature of the constitutional question before the Court, namely whether petitioner’s
21 prolonged detention has become unreasonable.” *Id.* at 1117 (citing *Zadvydas*, 533 U.S. at 701).
22 The Court, instead, adopted a multi-factor test to apply in making the determination of whether §
23 1225(b) detention has become unreasonable, considering: “(1) the total length of detention to
24 date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the

1 removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the
2 government; and (6) the likelihood that the removal proceedings will result in a final order of
3 removal.” *Id.* at 1106.

4 An analysis of these factors demonstrates that Petitioner’s detention has not been
5 prolonged.

6 **1. Length of Detention**

7 The first factor, the length of detention to date, is the most important one. *Id.* at 1118.
8 “The longer mandatory detention continues . . . the harder it is to justify.” *Murillo-Chavez v.*
9 *Garland*, 2:22-cv-00303-LK-MLP, 2022 WL 16555994, at *5 (W.D. Wash. Aug. 30, 2022),
10 report and recommendation adopted, 2022 WL 16553176 (W.D. Wash. Oct. 31, 2022) (citing
11 cases). Here, Petitioner has been detained since December 17, 2025, for approximately four
12 months. This length of detention is well below the range of what Courts in this District typically
13 find unreasonable. *See, e.g., Nguyen*, 2:25-cv-01988-SKV, Dkt. 15, pgs. 3-4 (citing *Maliwat*,
14 2025 WL 2256711, at *4 (citing cases finding periods of detention ranging from eleven to thirty
15 months to favor the detainee; finding same for a petitioner detained for nearly twelve months);
16 *Toktosunov*, No. 2:25-cv-01724-TL, 2025 WL 3492858, at *4 (finding sixteen months of
17 detention favored detainee); *Banda*, 385 F. Supp. 3d at 1118-19 (finding approximate seventeen-
18 month detention strongly favored detainee). Therefore, this factor should weigh in favor of
19 Respondent.

20 **2. Likely Duration of Future Detention**

21 Under the second *Banda* factor, the Court considers how long the petitioner’s detention is
22 likely to continue absent judicial intervention, *i.e.*, “the anticipated duration of all removal
23 proceedings—including administrative and judicial appeals.” *Banda*, 385 F. Supp. 3d at 119
24 (quoting *Jamal A. v. Whitaker*, 358 F.Supp.3d 853, 859 (D. Minn. Jan. 22, 2019)).

1 Petitioner has not appealed his removal order. Rodriguez Decl. ¶ 11. Thus, his removal
2 order is likely to become final on April 24, 2026, and his removal will occur shortly thereafter.
3 This factor weighs in favor of Respondent.

4 **3. Conditions of Detention**

5 Under the third *Banda* factor, the Court considers the conditions of the petitioner's
6 detention at the facility where he or she is currently detained. "The more that the conditions under
7 which the [noncitizen] is being held resemble penal confinement, the stronger his argument that
8 he is entitled to a bond hearing." *Id.* at 1119 (quoted source omitted). Petitioner is detained at the
9 NWIPC. He does not present any allegations regarding his conditions of detention or argue that
10 the conditions at the NWIPC are penal or similar to those in prisons or jails. Thus, the third factor
11 weighs in Respondent's favor.

12 **4. Delays in the Removal Proceedings Caused by Petitioner**

13 The fourth *Banda* factor assesses delays caused by the petitioner in the removal
14 proceedings. *Id.* at 1119. Petitioner's merits hearing was delayed for about one month because he
15 filed a motion to continue. Thus, the fourth *Banda* factor weighs in Respondent's favor.

16 **5. Delays in the Removal Process Caused by Respondent**

17 Under the fifth *Banda* factor, the Court "considers the nature and extent of any delays in
18 the removal proceedings caused by the government." *Id.* at 1120. Petitioner does not point to any
19 delays in his case occasioned by Respondent, and the record does not evince any. Absent any
20 indication of a respondent-caused delay, this factor weighs neutral. *See Nguyen*, 2:25-cv-01988-
21 SKV, Dkt. 15, pgs. 3-4 (citing *Toktosunov*, 2025 WL 3492858, at *5).

22 **6. Likelihood of Removal Proceedings Resulting in Final Order of Removal**

23 Finally, under the sixth *Banda* factor, the Court considers "the likelihood that the final
24 proceedings will culminate in a final order of removal." *Banda*, 385 F. Supp. 3d at 1120 (quoted

1 source omitted). The Court, in other words, considers whether the petitioner has asserted any
2 defenses to removal. *Id.* “Where a noncitizen has not asserted any grounds for relief from removal,
3 presumably the noncitizen will be removed from the United States, and continued detention will
4 at least marginally serve the purpose of detention, namely assuring the noncitizen is removed as
5 ordered.” *Id.* (cited source omitted). “But where a noncitizen has asserted a good faith challenge
6 to removal, ‘the categorical nature of the detention will become increasingly unreasonable.’” *Id.*
7 (quoted source omitted).

8 Here, Petitioner has not appealed his removal order, and he has not asserted any other
9 claims for relief from removal. Thus, Petitioner’s removal order is likely to become final and he
10 is likely to be removed in the near future. This factor weighs in favor of Respondent.

11 Thus, the Court should find that the *Banda* test, on balance, favors Respondent, that
12 Petitioner’s continued detention under 8 U.S. C. § 1225(b) has not yet become unreasonable, and
13 that due process does not require the Government to provide Petitioner with a court-ordered bond
14 hearing.

15 **C. Petitioner failed to exhaust his administrative remedies.**

16 Petitioner failed to exhaust his administrative remedies with respect to his request for a
17 bond hearing. Because Petitioner has received two bond hearings during his removal proceedings,
18 and the IJ denied bond during each of these hearings, this Court should require Petitioner to appeal
19 that ruling to the BIA before seeking habeas relief in this Court.

20 Although exhaustion of administrative remedies is not a jurisdictional prerequisite for
21 habeas petitions, courts generally “require, as a prudential matter, that habeas petitioners exhaust
22 available judicial and administrative remedies before seeking [such] relief.” *Castro-Cortez v. INS*,
23 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v.*
24 *Gonzales*, 548 U.S. 30 (2006)). The exhaustion requirement is subject to waiver because it is not

1 a “‘jurisdictional’ prerequisite.” *Id.* Courts may require prudential exhaustion where: “(1) agency
2 expertise makes agency consideration necessary to generate a proper record and reach a proper
3 decision; (2) relaxation of the requirement would encourage the deliberate bypass of the
4 administrative scheme; and (3) administrative review is likely to allow the agency to correct its
5 own mistakes and to preclude the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815
6 (9th Cir. 2007).

7 This Court should not allow Petitioner to move forward with this habeas petition seeking
8 a bond hearing without first exhausting his administrative remedies. *See Cristobal v. Asher*, 2:20-
9 cv-01493-RSM-BAT, 2020 WL 8678097, at * 3 (W.D. Wash. Dec. 14, 2020), Rep. & Rec.
10 adopted by 2021 WL796597 (W.D. Wash. Mar. 2, 2021).

11 This case meets the elements requiring prudential exhaustion because the BIA “has a
12 special expertise in reviewing the question of whether the bond record as a whole makes it
13 substantially unlikely that the Department w[ill] prevail on [the petitioner’s] challenge to
14 removability.” *Francisco Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3
15 (N.D. Cal. Apr. 5, 2019) (internal quotation marks omitted). Also, allowing a “relaxation of the
16 exhaustion requirement” would promote the avoidance of seeking a bond redetermination by the
17 IJ or an appeal of similar IJ orders to the BIA. Finally, the outcome of Petitioner’s exhaustion of
18 administrative remedies may provide him with the relief sought here, such as another bond
19 hearing or release on bond. Therefore, the habeas petition should be dismissed because Petitioner
20 has failed to exhaust his administrative remedies.

21 V. CONCLUSION

22 For the foregoing reasons, Respondent respectfully requests that this Court deny the
23 habeas petition.
24

1 DATED this 6th day of April, 2026.

2 Respectfully submitted,

3 s/ Jennifer Wong

4 JENNIFER WONG, CA No. 341634

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13 *Attorney for Respondent*

14 I certify that this memorandum contains 2,929
15 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers;

I further certify that on this date, I electronically filed the foregoing and following supporting declarations and exhibits with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Dionelis Jose Lopez Camacho, *Pro Se* Petitioner
A#
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DATED this 6th day of April, 2026.

s/ Albert Kidd
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