

District Judge Lauren King

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

YOHAN ANTONIO
AGUILAR-GRATEROLL,

Petitioner,

v.

WARDEN/FACILITY ADMINISTRATOR
NORTHWEST DETENTION CENTER,¹

Respondent.

Case No. 2:26-cv-00997-LK

UNITED STATES' RETURN
MEMORANDUM

Noted for Consideration:
April 13, 2026

I. INTRODUCTION

This Court should deny Petitioner Yohan Antonio Aguilar-Graterol's Petition for a Writ of Habeas Corpus. Dkt. 1, ("Pet."). U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner pursuant to 8 U.S.C. § 1225(b)(1) following the revocation of his order of release on recognizance ("OREC") previously issued by the U.S. Department of Homeland

¹ For the purposes of this habeas return, "Interested Non-Party" refers to the United States of America on behalf of U.S. Immigration and Customs Enforcement Acting Seattle Field Office Director Julio Hernandez; U.S. Department of Homeland Security ("DHS") Secretary Markwayne Mullin; DHS; and Acting U.S. Attorney General Todd Blanche. Respondent Bruce Scott is not represented by undersigned counsel.

1 Security (“DHS”). Petitioner challenges his detention at the Northwest ICE Processing Center
2 (“NWIPC”) and seeks his immediate release or a court-ordered bond hearing.

3 Petitioner does not assert a due process challenge to the procedures underlying the
4 revocation of his OREC. *See Calderon v. Noem*, No. 2:25-CV-2136-LK-TLF, 2025 WL 3754042,
5 *4 (W.D. Wash. Dec. 29, 2025) (explaining “it is well-settled...that a habeas petitioner cannot
6 amend his petition – much less introduce wholly new claims – in his reply brief.”) (cleaned up).
7 For the reasons set forth below, Petitioner’s requests should be denied because his detention is
8 statutorily mandated and consistent with due process.

9 II. BACKGROUND

10 A. Detention Authority Pursuant to 8 U.S.C. § 1225(b).

11 The Immigration and Nationality Act (“INA”) mandates the detention of applicants for
12 admission. 8 U.S.C. §§ 1225(b)(1), (b)(2); *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *see*
13 *also Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) (affirming the government’s
14 position that noncitizens who have not been admitted or are not entitled to be admitted to the
15 United States are “applicants for admission” who are subject to mandatory detention under
16 Section 1225(b)). As the Fifth Circuit recently found, noncitizens who are present without
17 admission in the United States are “applicants for admission” as defined in Section 1225(a)(1). *Id.*
18 at 502. The court clarified that an “applicant for admission” is a person “seeking admission”
19 regardless of whether that person is actively engaged in admissions procedures when detained.
20 *Id.* at 502-06. The Eighth Circuit has agreed that the two terms are the same. *Avila v. Bondi*, No.
21 25-3248, 2026 WL 819258, at *3 (8th Cir. Mar. 25, 2026) (“[W]hile an alien remains an
22 ‘applicant for admission’ so long as he is ‘present in the United States [and] has not been
23 admitted,’ 8 U.S.C. § 1225(a)(1), he is also ‘presently seeking admission’ during this time,

1 regardless of whether he takes “any further affirmative steps to gain admittance,” *Buenrostro-*
2 *Mendez*, 166 F.4th at 402.”).

3 Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1)
4 and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(1) covers
5 noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack of
6 valid documentation, and certain other noncitizens designated by the Attorney General in their
7 discretion. *Id.* Separately, Section 1225(b)(2) serves as a catchall provision that applies to all
8 applicants for admission not covered by Section 1225(b)(1) (with specific exceptions not relevant
9 here). *Id.* Congress has determined that all noncitizens subject to Section 1225(b) are subject to
10 mandatory detention. Regardless of whether a noncitizen falls under Section 1225(b)(1) or (b)(2),
11 the sole means of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian
12 reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

13 Importantly, however, the release of a noncitizen on an OREC prior to July 2025 should
14 not determine whether that person’s detention authority is currently governed by § 1225(b) or §
15 1226(a). On July 8, 2025, DHS issued a memorandum to ICE employees explaining that DHS
16 had revisited its legal position on detention and release authorities. *See Rodriguez v. Bostock*, 802
17 F. Supp. 3d 1297, 1308 (W.D. Wash. 2025). The memorandum defined an “applicant for
18 admission” as “an alien present in the United States who has not been admitted or who arrives in
19 the United States, whether or not at a designated port of arrival. *Id.* (citing 8 U.S.C.
20 § 1225(a)(1)). Prior to July 2025, DHS allowed for the discretionary release of noncitizens that
21 fit the definition of an applicant for admission pursuant to 8 C.F.R. § 236.1(c)(8), instead of only
22 utilizing parole, like what occurred here.

23 But the memorandum clarified, “[e]ffective immediately, it is the position of DHS that
24 such aliens are subject to detention under [8 U.S.C. § 1225(b)] and may not be released from ICE

1 custody except by [8 U.S.C. § 1182(d)(5)].” *Rodriguez*, 802 F. Supp. 3d at 1308. Thus, DHS’s
2 prior practice of OREC releases for applicants for admission does not mean that those noncitizens
3 are no longer applicants for admissions. *Buenrostro-Mendez*, 166 F.4th at 506 (“While that is
4 true, the government’s past practice has little to do with the statute’s text. The text says what it
5 says, regardless of the decisions of prior Administrations. Years of consistent practice cannot
6 vindicate an interpretation that is inconsistent with a statute’s plain text.”); *Avila*, 2026 WL
7 819258, at *5 (“[N]either *Jennings* nor the Government’s history of enforcing § 1225 confines
8 the Government’s authority to detain aliens under § 1225(b)(2)(A) to the border.”).

9 **B. Order of Release on Recognizance (“OREC”).**

10 An OREC, issued through Form I-220A, permits the discretionary release of certain
11 noncitizens in immigration proceedings without a monetary bond, subject to conditions such as
12 periodic reporting and compliance with appearance requirements in immigration proceedings.
13 Such release is entirely discretionary, and revocation is permitted “at any time” in the agency’s
14 exercise of discretion. *See* 8 C.F.R. § 236.1(c)(9).

15 **C. Petitioner Yohan Antonio Aguilar-Graterol.**

16 Petitioner is a native and citizen of Venezuela who entered the United States without
17 inspection or parole near Eagle Pass, Texas, on or about July 19, 2023. *See* Declaration of Barbara
18 Andrade (“Andrade Decl.”), Ex. A, (NTA); Ex. D (Form I-213, Jul. 2023). On July 20, 2023,
19 Petitioner was released on OREC due to a lack of detention space. Andrade Decl., Ex. C (OREC);
20 *See* Declaration of Deportation Officer Enrique Rodriguez (“Rodriguez Decl.”), ¶ 8. Petitioner’s
21 OREC outlined the conditions of his discretionary release, including reporting requirements and
22 his obligation to not violate any local, State, or Federal laws or ordinances. Andrade Decl., Ex. C
23 (OREC).

1 Between his July 20, 2023, release on OREC and his re-detention on February 18, 2026,
2 Petitioner was convicted of several traffic infractions. Rodriguez Decl., ¶¶ 9-13.

3 On February 18, 2026, ICE officials arrested Petitioner in Ogden, Utah, during a routine
4 investigation. Rodriguez Decl., ¶ 14; Andrade Decl., Ex. H (Form I-213, Feb. 2026). ICE issued
5 a warrant for Petitioner's arrest, which was served that same day. Andrade Decl., Ex. F (Warrant
6 2026). On February 24, 2026, ICE transferred Petitioner to the NWIPC. Rodriguez Decl., ¶ 15.

7 On March 10, 2026, Petitioner appeared for a bond hearing before an immigration judge
8 at the Tacoma Immigration Court. Rodriguez Decl., ¶ 16; Andrade Decl., Ex. B (Bond Order).
9 The immigration judge denied Petitioner's request for bond, finding Petitioner was not a
10 *Rodriguez Vazquez* class member due to his previous apprehension at the border upon shortly
11 after his unlawful entry. Andrade Decl., Ex. B (Bond Order); Rodriguez Decl., ¶ 176. The bond
12 order reflects the immigration judge's finding that Petitioner's case is "clearly controlled by
13 *Matter of Q. Li*," and further reflects the immigration judge denied Petitioner's request for an
14 alternative finding. Andrade Decl., Ex. B (Bond Order); Rodriguez Decl., ¶ 17.

15 While Petitioner reserved his right to appeal the immigration judge's decision, as of the
16 date of this return, no appeal has been filed. Andrade Decl., Ex. B at 2 (Bond Order); Rodriguez
17 Decl., ¶¶ 18-19. On March 17, 2026, Petitioner appeared at a hearing during which he conceded
18 removability as charged. Rodriguez Decl., ¶ 20. Petitioner is currently scheduled for a hearing on
19 the merits of his applications for relief from removal on April 28, 2026. Rodriguez Decl., ¶ 21.

20 III. LEGAL STANDARD

21 It is axiomatic that "[t]he district courts of the United States . . . are courts of limited
22 jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil*
23 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he
24 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present

day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. Petitioner is Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(1) and He Has Not Shown His Detention is Punitive.

Petitioner argues his continued detention violates due process because it “has been imposed without constitutionally adequate procedural safeguards.” *See* Pet., Ground I, at 5; *see also* Pet., Ground III, at 7 (arguing “Petitioner’s ongoing detention violates the Due Process Clause of the Fifth Amendment because it has been imposed and maintained without an individualized determination of necessity, risk of flight, or danger to the community.”).

At the time of Petitioner’s entry, applicable regulations provided that noncitizens encountered within 14 days of entry without inspection and within 100 miles of an international land border were treated as applicants for admission. *See Thuraissigiam*, 591 U.S. at 109 n.2 (citing 69 Fed. Reg. 48,879 (Aug. 11, 2004)); *see also* Andrade Decl., Ex. D at 2 (Form I-213, Jul. 2023). Petitioner falls squarely within that framework. *Id.*

As a noncitizen who entered the United States without inspection near Eagle Pass, Texas, on July 19, 2023, Petitioner was never lawfully admitted. Andrade Decl., Ex. A (NTA); *see also Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025). Petitioner’s charge of inadmissibility pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), together with his concession of inadmissibility on that basis, further confirms his status as an applicant for admission. Andrade Decl., Ex. A (NTA); Rodriguez

Decl., ¶ 20. While Petitioner was initially released from detention on an OREC, such release does not purport to change the statute governing his detention for the reasons stated above.

The Ninth Circuit has recognized that “the government clearly has a strong interest” in preventing noncitizens from “remain[ing] in the United States in violation of our law.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 518 (2003)). Congress has determined that applicants for admission “shall be detained” during the pendency of their removal proceedings, and the Supreme Court has interpreted these statutory commands to mandate detention of such noncitizens without discretionary release except through limited circumstances not implicated by the facts of this case. *See Jennings*, 583 U.S. at 302 (“In sum, §§ 1225(b)(1) and (b)(2) mandate detention of [noncitizens] throughout the completion of applicable proceedings.”).

Petitioner is not entitled to additional procedural safeguards where no entitlement to bond exists.² The Supreme Court has repeatedly rejected reading such procedural requirements into immigration detention statutes. *See, e.g., Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6) because “reviewing courts . . . are generally not free to impose [additional procedural rights] if the agencies have not chosen to grant them”) (quoting *Vermont Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 524 (1978)) (cleaned up). Accordingly, Petitioner’s arguments that his detention without an individualized bond determination violates due process are without merit.

Moreover, Petitioner has not shown the conditions of his confinement amount to punishment. At a “bare minimum,” noncitizens subject to civil immigration detention—just like

² This Court has found that mandatory detention under § 1225(b) without a bond hearing violates due process if it is “unreasonably prolonged.” *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117 (W.D. Wash. 2019). Petitioner, who has been detained for just under two months, does not argue that his detention has become unreasonably prolonged under the six *Banda* factors.

1 people detained under civil process or accused but not convicted of a crime—"cannot be subjected
2 to conditions that 'amount to punishment.'" *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir.
3 2004) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535 (1979)). Conditions of confinement amount to
4 punishment if they are "expressly intended to punish," "excessive in relation to their non-punitive
5 purpose," or "employed to achieve objectives that could be accomplished in so many alternative
6 and less harsh methods." *Jones*, 393 F.3d at 932 (internal quotation marks and citations omitted).

7 Here, Petitioner does not contend his detention is expressly intended to punish him,
8 excessive, or that there are alternative methods to achieve the government's objectives. *Id.* Thus,
9 Petitioner fails to show that his current detention amounts to punishment.

10 In sum, because Petitioner is an applicant for admission who has never been lawfully
11 admitted to the United States, his detention is mandatory pursuant to 8 U.S.C. § 1225(b)(1) and
12 consistent with due process. Even if this Court were to conclude that Petitioner is detained
13 pursuant to § 1226(a), the proper remedy would not be release. Rather, this Court should order
14 the immigration court to provide Petitioner with a bond hearing pursuant to established principles
15 under 8 U.S.C. §1226(a). *Cruz Cardenas v. Scott*, No. 2:25-CV-00064-TSZ-GJL, 2025 WL
16 1533230, *6 (W.D. Wash. May 9, 2025) (noting that "§ 1226(a) detainees bear the burden of
17 demonstrating they would not pose a risk of danger or of flight if released on bond.") (citing
18 *Rodriguez Diaz*, 53 F.4th at 1209).

19 **B. The Immigration Judge Did Not Base the Denial of Bond on Prohibited Evidence.**

20 Petitioner argues his continued detention violates due process because it is premised on
21 "unreliable, unverified, and uncorroborated allegations contained in [DHS] records, including
22 Form I-213." *See Pet.*, Ground II, at 6. This assertion is factually inaccurate.

23 Here, the immigration judge correctly determined that Petitioner is an applicant for
24 admission subject to mandatory detention under 8 U.S.C. § 1225(b)(1). Andrade Decl., Ex. B

(Bond Order); Rodriguez Decl., ¶ 16. The immigration judge expressly considered whether Petitioner fell within the Bond Denial Class certified by *Rodriguez Vazquez* and concluded that Petitioner is not a class member because he “was apprehended by Border Patrol within 24 hours” of his unlawful entry into the United States.³ Andrade Decl., Ex. B at 1. That finding is dispositive. The bond order further reflects the immigration judge declined to make any alternative findings regarding Petitioner’s alleged dangerousness or flight risk. *Id.* (“[Petitioner’s] request for an alternative finding is denied.”); Rodriguez Decl., ¶ 17. Because there is no indication that the immigration judge relied on any impermissible evidence or contested factual allegations to deny Petitioner’s request for bond, the immigration judge’s decision was not only legally correct but also fully consistent with due process.

V. CONCLUSION

For the foregoing reasons, the Court should deny the Petition. Should this Court be inclined to grant any relief in the instant case, it should order the immigration court to conduct a bond hearing under 8 U.S.C. § 1226(a), consistent with the Court’s decision in *Rodriguez Vasquez*.

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³ “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 v. Bostock*, 802 F. Supp. 3d 1297, 1309 (W.D. Wash. 2025).

1 DATED this 8th day of April, 2026.

2 Respectfully submitted,

3 s/ Barbara Andrade

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14 *I certify that this memorandum contains 2,425*
15 *words, in compliance with 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 on today's date, I electronically filed the foregoing 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 on today's date, I arranged for service of the foregoing on the following non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as follows:

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DATED this 8th day of April, 2026.

s/ Katie Reed-Johnson

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