

District Judge Tiffany M. Cartwright

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

FELIX CRUZ-ACEVEDO,

Petitioner,

v.

BRUCE SCOTT, *et al.*,

Respondents.

Case No. 2:26-cv-01103-TMC

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
April 20, 2026

U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioner pursuant to 8 U.S.C. § 1225(b). Petitioner challenges his mandatory detention as unlawful and claims to be a member of the Bond Denial Class certified in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. Mar. 20, 2025). Pet., at 1. As described below, Federal Respondents agree that Petitioner falls within the Bond Denial class definition.¹

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¹ “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 **A. 8 U.S.C. § 1225(b)**

2 Federal Respondents' position is that Petitioner is mandatorily detained pursuant to 8
 3 U.S.C. § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026)
 4 (affirming the government's position that aliens who have not been admitted or are not entitled
 5 to be admitted to the United States are "applicants for admission" who are subject to mandatory
 6 detention under Section 1225(b)(2)(A)). Applicants for admission fall into one of two categories.
 7 Section 1225(b)(1) covers noncitizens initially determined to be inadmissible due to fraud,
 8 misrepresentation, or lack of valid documentation, and certain other noncitizens designated by
 9 the Attorney General in her discretion. Separately, Section 1225(b)(2) serves as a catchall
 10 provision that applies to all applicants for admission not covered by Section 1225(b)(1) (with
 11 specific exceptions not relevant here). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

16 Federal Respondents acknowledge that in *Rodriguez Vazquez v. Bostock*, this Court
 17 granted summary judgment and found that detention pursuant to 8 U.S.C. § 1225(b)(2) of the
 18 Bond Denial Class is unlawful. *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297, 1336 (W.D. Wash.
 19 2025). That decision is presently on appeal. *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-
 20 TMC, Dkt. 71. Additionally, in *Maldonado Bautista v. Santacruz*, the district court found the
 21 same and extended declaratory relief to a similarly defined and certified nationwide Bond Eligible
 22 Class. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403
 23 (C.D. Cal. Nov. 25, 2025).

24 Respectfully, Federal Respondents do not agree with the *Rodriguez Vazquez* or

1 *Maldonado* decisions. As the Fifth Circuit recently found, aliens who are present without
2 admission in the United States are “applicants for admission” as defined in Section 1225(a)(1).
3 *Buenrostro-Mendez*, 166 F.4th at 502. The court clarified that an “applicant for admission” is a
4 person “seeking admission” regardless of whether that person is actively engaged in admissions
5 procedures when detained. *Id.*, at 502-06.

6 The Eighth Circuit has come to the same conclusion. *Avila v. Bondi*, No. 25-3248, 2026
7 WL 819258, at *3 (8th Cir. Mar. 25, 2026) (“Here, we agree with the Fifth Circuit that the
8 ordinary meanings of the phrases ‘applicant for admission’ and ‘seeking admission’ are the
9 same.”). “[W]hile an alien remains an ‘applicant for admission’ so long as he is ‘present in the
10 United States [and] has not been admitted,’ 8 U.S.C. § 1225(a)(1), he is also ‘presently seeking
11 admission’ during this time, regardless of whether he takes “any further affirmative steps to gain
12 admittance,’ *Buenrostro-Mendez*, 166 F.4th at 402.” *Id.*, at *3.

13 While Federal Respondents do not concede that *Rodriguez Vasquez* was correctly decided,
14 Federal Respondents do not oppose Petitioner being considered members of the *Rodriguez*
15 *Vazquez* Bond Denial Class for purposes of this litigation.

16 **B. Petitioner Cruz-Acevedo**

17 Even as a class member, Petitioner is lawfully detained, and he is not entitled to the relief
18 that he seeks in this litigation. On March 27, 2026, the immigration judge denied Petitioner’s
19 request for bond due to lack of jurisdiction after determining that he is subject to mandatory
20 detention pursuant to 8 U.S.C. § 1225(b). Petitioner was also issued an alternate bond order.
21 Lambert Decl., Ex. A, Order. In the alternative, the immigration judge denied bond because
22 Petitioner had failed to establish that he is not a flight risk. *Id.*

23 “[T]he essence of habeas corpus is an attack by a person in custody upon the legality of
24 that custody, and . . . the traditional function of the writ is to secure release from illegal custody.”

1 *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Although Petitioner challenges the immigration
2 judge's finding of mandatory detention under Section 1225(b), the immigration judge
3 alternatively held a bond hearing for Petitioner and determined that Petitioner presents a flight
4 risk. This is a separate basis for the "legality of [his] custody." *Rivera Hernandez v. Hermosillo*,
5 No. 2:26-cv-00341-TMC, 2026 WL 295709, at *2 (W.D. Wash. Feb. 4, 2026). Accordingly,
6 even under Section 1226(a), Petitioner remains lawfully in detention under the immigration
7 judge's alternate finding. To the extent that Petitioner may challenge the alternative finding, this
8 Court should require Petitioner to exhaust his administrative remedies before doing so in district
9 court. *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by
10 *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006)).

11 While Petitioner is currently a Bond Denial Class member, he may not be in the class
12 much longer. On April 13, 2026, an immigration judge granted Petitioner's request for post-
13 conclusion voluntary departure under 8 U.S.C. § 1229b(b). Lambert Decl., Ex. B, Order.
14 Petitioner has until June 12, 2026, to depart the United States or the order will convert to a removal
15 order. *Id.* The immigration judge ordered the condition of "under safeguards" which means
16 detention. *Id.* Petitioner has until May 13, 2026 to administratively appeal the order. *Id.*

17 If the order converts to a removal order, Petitioner's detention authority will shift to 8
18 U.S.C. § 1231(a)(2).

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1 DATED this 14th day of April, 2026.

2 Respectfully submitted,

3 s/ Michelle R. Lambert

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14 *I certify that this memorandum contains 1,004*
15 *words, in compliance with Local Civil Rules*