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The Honorable Tiffany M. Cartwright

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

CRUZ-ACEVEDO, FELIX,

Petitioner,

v.

BRUCE SCOTT, Warden of the Northwest ICE
Processing Center;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security

Respondents.

CIVIL ACTION NO. 2:26-CV-01103-TMC

**REPLY IN SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS**

I. INTRODUCTION

Petitioner submits this reply in support of his Petition for Writ of Habeas Corpus. In their Return, Respondents concede that Petitioner is a member of the Bond Denial Class under *Rodriguez-Vasquez v. Bostock*, yet seek to justify his continued detention based on a proceeding that did not provide meaningful custody review.

Although Respondents characterize the Immigration Judge proceeding as a bond hearing, the record demonstrates otherwise. The Immigration Judge found that she lacked jurisdiction, applied mandatory detention under *Matter of Yajure-Hurtado*, and issued an adverse finding that

1 foreclosed release. This was not a lawful custody determination—it was the very type of illusory
2 process that courts have repeatedly rejected.

3 Respondents further rely on a subsequent grant of voluntary departure. Petitioner has
4 appealed that decision to the Board of Immigration Appeals. The order is therefore not final, and
5 Petitioner remains in ongoing removal proceedings.

6 Under these circumstances, Petitioner has never received a lawful or meaningful custody
7 determination. The Constitution does not permit detention based on defective or post hoc
8 process. Because the violation has already occurred and cannot be cured through further
9 proceedings, the appropriate remedy is immediate release.
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11 **II. A BOND HEARING DOES NOT REMEDY UNLAWFUL DETENTION**

12 The Government’s position rests on the premise that the existence of a bond hearing—
13 regardless of its substance—satisfies due process. That premise is incorrect.
14

15 The violation here is not merely the absence of a hearing—it is Petitioner’s continued
16 detention under an unlawful statutory framework without a valid custody determination. As this
17 Court has already held, individuals like Petitioner are detained under 8 U.S.C. § 1226(a) and are
18 entitled to individualized custody determinations. *Rodriguez-Vasquez*, 802 F. Supp. 3d at 1336.
19

20 A proceeding in which the Immigration Judge denies jurisdiction, applies the wrong legal
21 standard, and issues findings that preclude release is not a meaningful custody determination.
22 Due process requires a meaningful opportunity to be heard at a meaningful time—not the
23 appearance of process. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).
24

25 Courts addressing similar unlawful detention have consistently ordered immediate
26 release—not belated or defective bond hearings. See, e.g., *Torres Ferrera v. Scott*, No. 2:26-cv-
27 00583-TL (W.D. Wash. Mar. 19, 2026) (ordering release where detention lacked constitutionally
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adequate process); *Noe Vela Blanco v. Warden*, No. SA-26-CV-00747-XR (W.D. Tex. Apr. 1, 2026) (granting habeas and ordering release); *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at *13 (S.D. Tex. Feb. 3, 2026) (finding due process concerns warrant immediate release). These decisions confirm that where detention is unlawful, the appropriate remedy is release—not the possibility of future proceedings.

Detention cannot be justified by post hoc or defective procedures. Civil detention must remain reasonably related to its purpose and cannot be sustained through after-the-fact rationalizations. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

III. THE IMMIGRATION JUDGE’S FINDINGS DO NOT CONSTITUTE A VALID CUSTODY DETERMINATION

Respondents rely on the Immigration Judge’s findings, including an asserted “flight risk” determination. However, the Immigration Judge expressly determined that she lacked jurisdiction. Once jurisdiction is lacking, the Immigration Judge has no authority to render a binding custody determination. Any additional findings are not the product of a valid § 1226(a) proceeding. Moreover, the decision was based on *Matter of Yajure-Hurtado*, which applies the very § 1225(b) framework that this Court has already rejected for Bond Denial Class members.

A custody determination made under an improper legal standard is not a lawful determination. The Government cannot rely on a proceeding that both disclaims jurisdiction and applies the wrong statutory framework to justify continued detention.

IV. SYSTEMIC PRACTICE CONFIRMS THAT BOND HEARINGS ARE NOT PROVIDING MEANINGFUL RELIEF

This case reflects a broader pattern, not an isolated error. As demonstrated in similar cases, Immigration Judges have continued to deny jurisdiction to Bond Denial Class members, apply improper legal standards, and issue adverse findings that effectively preclude release.

1 Under these circumstances, directing Petitioner to seek another bond hearing would not
2 provide a meaningful remedy—it would only prolong unlawful detention.

3 Following the U.S. District Court for the Central District of California’s November 2025
4 nationwide declaratory judgment in *Maldonado Bautista v. Santacruz*, holding that similarly
5 situated detainees are entitled to bond consideration under 8 U.S.C. § 1226(a), the Department of
6 Justice instructed Immigration Judges not to comply with that ruling. As a result, “nearly all IJs
7 continued to refuse to consider class members as detained under § 1226(a).” This has led to
8 numerous IJs findings of “no jurisdiction,” which leaves class members without access to any
9 meaningful consideration for bond. Even if there is not a finding of “no jurisdiction,” IJs
10 continue to rely on adverse “flight risk” determinations to foreclose release, rendering any
11 opportunity for a bond hearing completely futile. The current situation in Tacoma includes the
12 following:
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- 15 • **High Denial Rates:** Court records noted that Tacoma IJs granted bond in only **3% of**
16 **cases** in fiscal year 2023, the lowest rate in the nation.
- 17 • **Willful Defiance:** Advocates have accused Tacoma IJs of "willful defiance" of federal
18 orders by finding ways to deny bond
- 19 • **Burden of Proof:** In these hearings, the burden is often on the noncitizen to prove they
20 are *not* a danger or flight risk.
21
22

23 Where adjudicators are instructed to disregard binding authority, and where systemic
24 denial of bond persists despite court intervention, the availability of a bond hearing does not
25 provide an adequate remedy for unlawful detention nor serve as a meaningful safeguard.

26 Under these circumstances, a bond hearing is illusory and directing Petitioner to seek one
27 would not cure the constitutional violation already suffered. Courts have recognized that
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1 exhaustion is not required where administrative remedies are futile or incapable of providing
2 meaningful relief. *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).

3 **V. THE PENDING BIA APPEAL CONFIRMS THAT PETITIONER REMAINS IN PRE-**
4 **FINAL ORDER DETENTION**

5 Respondents' reliance on the Immigration Judge's grant of voluntary departure is
6 misplaced. Petitioner is appealing that decision with the Board of Immigration Appeals, and as a
7 result, the order is not final, and the voluntary departure period does not render Petitioner subject
8 to post-removal-order detention. Accordingly, detention remains governed by § 1226, not §
9 1231.
10

11 More importantly, the existence of a voluntary departure order does not cure the
12 underlying defect in Petitioner's detention. He was denied a lawful custody determination, and
13 that violation remains. The Government cannot rely on subsequent procedural developments to
14 retroactively justify unlawful detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001)
15 (detention must be justified by its present legal basis and cannot be sustained by shifting or
16 speculative rationales); *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (habeas requires a
17 "meaningful opportunity" to challenge detention, not post hoc justification).
18

19 **VI. IMMEDIATE RELEASE IS THE APPROPRIATE REMEDY**
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21 Where detention is unlawful, the remedy is release. As the Supreme Court has explained,
22 "the typical remedy for such detention is... release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

23 This Court has already rejected Respondents' exact position. In *Torres Ferrera v. Scott*,
24 No. 2:26-cv-00583-TL, Amended Order on Petition for Habeas Corpus (W.D. Wash. Mar. 19,
25 2026), the Court held that where a detainee is deprived of liberty without constitutionally
26 adequate process, the violation cannot be cured through later proceedings. The Court explained
27 that "where a person with a protected liberty interest is provided no process at all to contest its
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1 deprivation, due process cannot be satisfied,” and “emphatically reject[ed]” the Government’s
2 attempt to justify unlawful detention through post hoc procedures. The Court further held that
3 because the detention was unlawful from its inception, immediate release—not additional
4 process—was required.

5
6 A remand for another bond hearing would not provide meaningful relief. The record
7 demonstrates that such proceedings are not functioning as a safeguard and would only prolong
8 unlawful detention. Respondents’ position would permit the Government to detain individuals
9 under an unlawful legal theory for months, only to offer process after judicial intervention. This
10 “no harm, no foul” approach has already been rejected by this Court. Therefore, the only
11 appropriate remedy in this situation is immediate release.

12 13 **VII. PRAYER FOR RELIEF**

14 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 15 1. GRANT this Petition for Writ of Habeas Corpus;
16
17 2. ORDER Respondents to immediately release Petitioner from custody;
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19 3. Order that Respondents are ENJOINED from re-detaining Petitioner after release
20 based on the same facts and legal theory rejected by this Court, absent a lawful basis
21 supported by new, individualized findings.

22 **VIII. CONCLUSION**

23 Respondents concede that Petitioner is entitled to a custody determination, yet rely on a
24 proceeding in which jurisdiction was denied, the wrong legal framework was applied, and no
25 meaningful review occurred. That is not due process.

1 Petitioner remains detained under a legal theory this Court has already rejected and has
2 never received a lawful or meaningful custody determination. His appeal is pending before the
3 Board of Immigration Appeals, and his detention continues without lawful justification.
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5 Because the violation has already occurred and cannot be cured through defective or
6 belated proceedings, this Court should grant the Petition and order Petitioner's immediate
7 release.
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9 Respectfully submitted this 20th day of April 2026.
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11 /s/Vicky J Currie

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13 Attorney for Petitioner
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