

Vicky J Currie, WSBA #24192  
Currie Law Firm  
1008 S Yakima Ave STE 100  
Tacoma, WA 98405  
253.588.9922  
currielawfirm@gmail.com

The Honorable Tiffany M. Cartwright

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

MENDEZ-REYES, CELERINO

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-01145-TMC

**TRAVERSE IN SUPPORT OF AMENDED  
PETITION FOR WRIT OF HABEAS  
CORPUS PURSUANT TO  
28 U.S.C. § 2241**

**I. INTRODUCTION**

Petitioner submits this traverse 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-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 802 F. Supp. 3d 1297 (W.D. Wash. 2025), yet seek to continue his detention by offering only the possibility of a future bond hearing. That position ignores both the nature of the constitutional violation and the reality of current immigration court practice.

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1 As demonstrated below, Immigration Judges—particularly in Tacoma—are not providing  
2 meaningful custody determinations. Bond hearings are routinely denied, undermined by  
3 improper legal standards, or rendered illusory through adverse findings that preclude release.  
4 Even after federal courts have declared such detention unlawful, adjudicators have continued to  
5 disregard binding authority and deny bond on a widespread basis. Under these circumstances, a  
6 bond hearing is not a meaningful safeguard and cannot cure the violation already suffered.

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

18 The Constitution does not permit the Government to detain first and provide process  
19 later, nor to rely on speculative future proceedings that, in practice, do not result in release.  
20 Where detention is unlawful and no meaningful process has been provided, the only adequate  
21 remedy is immediate release.

## 22 **II. ARGUMENT:**

### 23 **A BOND HEARING DOES NOT REMEDY UNLAWFUL DETENTION**

24 First, the violation here is not merely the absence of a bond hearing—it is Petitioner’s  
25 continued detention under an unlawful statutory framework. As this Court has already held,  
26 individuals like Petitioner are detained under 8 U.S.C. § 1226(a) and are entitled to  
27

1 individualized custody determinations. *Rodriguez-Vazquez*, 802 F. Supp. 3d at 1336. Continued  
2 detention without such a determination is unlawful.

3         Second, a belated bond hearing does not cure that violation. Due process requires a  
4 meaningful opportunity to be heard at a meaningful time—not after months of unlawful  
5 detention. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). The Supreme Court has made clear  
6 that civil detention must remain reasonably related to its purpose and cannot be justified by post  
7 hoc procedural remedies. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Government may  
8 not detain first and provide process later.  
9

10         This Court has already rejected Respondents’ exact position. In *Torres Ferrera v. Scott*,  
11 No. 2:26-cv-00583-TL, Amended Order on Petition for Habeas Corpus (W.D. Wash. Mar. 19,  
12 2026), the Court held that where a detainee is deprived of liberty without constitutionally  
13 adequate process, the violation cannot be cured through later proceedings. The Court explained  
14 that “where a person with a protected liberty interest is provided no process at all to contest its  
15 deprivation, due process cannot be satisfied,” and “emphatically reject[ed]” the Government’s  
16 attempt to justify unlawful detention through post hoc procedures. The Court further held that  
17 because the detention was unlawful from its inception, immediate release—not additional  
18 process—was required.  
19

20         Even if a bond hearing were ordered, it would not provide a meaningful remedy.  
21  
22 Following the U.S. District Court for the Central District of California’s November 2025  
23 nationwide declaratory judgment in *Maldonado Bautista v. Santacruz*, holding that similarly  
24 situated detainees are entitled to bond consideration under 8 U.S.C. § 1226(a), the Department of  
25 Justice instructed Immigration Judges not to comply with that ruling. As a result, “nearly all IJs  
26 continued to refuse to consider class members as detained under § 1226(a).” This has led to  
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28 U.S.C. § 2241 - 3

1 numerous IJs findings of “no jurisdiction,” which leaves class members without access to any  
2 meaningful consideration for bond. Even if there is not a finding of “no jurisdiction,” IJs  
3 continue to rely on adverse “flight risk” determinations to foreclose release, rendering any  
4 opportunity for a bond hearing completely futile. The current situation in Tacoma includes the  
5 following:  
6

- 7 • **High Denial Rates:** Court records noted that Tacoma IJs granted bond in only **3% of**  
8 **cases** in fiscal year 2023, the lowest rate in the nation.
- 9 • **Willful Defiance:** Advocates have accused Tacoma IJs of “willful defiance” of federal  
10 orders by finding ways to deny bond
- 11 • **Burden of Proof:** In these hearings, the burden is often on the noncitizen to prove they  
12 are *not* a danger or flight risk.  
13

14 Where adjudicators are instructed to disregard binding authority, and where systemic  
15 denial of bond persists despite court intervention, the availability of a bond hearing does not  
16 provide an adequate remedy for unlawful detention nor serve as a meaningful safeguard.  
17

18 Under these circumstances, directing Petitioner to seek a bond hearing would not cure the  
19 constitutional violation already suffered. Courts have recognized that exhaustion is not required  
20 where administrative remedies are futile or incapable of providing meaningful relief. *Laing v.*  
21 *Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).  
22

23 Turning to relief, where detention is unlawful, the remedy is release. As the Supreme  
24 Court has explained, “the typical remedy for such detention is... release.” *Munaf v. Geren*, 553  
25 U.S. 674, 693 (2008). Courts across the country have recently ordered immediate release in  
26 similar cases. See, e.g., *Moctezuma v. Henkey*, No. 1:25-CV-741-BLW, 2026 WL 18809, at \*5  
27

1 (D. Idaho Jan. 2, 2026); *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at \*13 (S.D.  
2 Tex. Feb. 3, 2026); *Santiago v. Garland*, 2025 WL 2792588, at \*13–14.

3 A bond hearing is not an adequate substitute. Courts have recognized that such hearings  
4 are “no substitute” for the requirement that the Government justify detention at the time liberty is  
5 taken. *Cruz-Reyes*, 2026 WL 332315, at \*5. Due process does not permit the Government to  
6 detain first and provide process later, nor to rely on speculative future review to cure a completed  
7 constitutional violation. See *Gonzalez v. Joyce*, No. 25 Civ. 8250, 2025 WL 2961626, at \*5  
8 (S.D.N.Y. Oct. 19, 2025); *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065, 2025 WL  
9 3314420, at \*31 (E.D.N.Y. Nov. 28, 2025).

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12 Other courts have reached the same conclusion. In *Noe Vela Blanco v. Warden*, No. SA-  
13 26-CV-00747-XR, Order Granting Petition for Writ of Habeas Corpus (W.D. Tex. Apr. 1, 2026),  
14 the court ordered the petitioner’s immediate release rather than requiring a bond hearing.

15 Respondents’ position would permit the Government to detain individuals under an  
16 unlawful legal theory for months, only to offer process after judicial intervention. This “no harm,  
17 no foul” approach has already been rejected by this Court.

18  
19 Accordingly, this Court should follow its own recent decision in *Torres Ferrera v. Scott*,  
20 No. 2:26-cv-00583-TL (W.D. Wash. Mar. 19, 2026), which rejected the Government’s request  
21 for post hoc process and ordered immediate release where detention was unlawful. The same  
22 circumstances are present here: Respondents concede class membership, concede the absence of  
23 a custody determination, and seek only to delay relief through a belated bond hearing. This Court  
24 should not permit that result. Because Petitioner’s detention is unlawful and has already resulted  
25 in a completed constitutional violation, the appropriate remedy is immediate release—not a bond  
26 hearing.

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### III. CONCLUSION

Respondents concede that Petitioner is entitled to a custody determination, yet ask this Court to deny relief and instead require him to seek that determination through a system that has consistently failed to provide meaningful review. The record demonstrates that Immigration Judges are not granting bond on a meaningful basis and, in many cases, are continuing to deny relief despite binding authority to the contrary. Under these conditions, a bond hearing is not a remedy—it is delay.

The violation in this case has already occurred. Petitioner has been detained for months without lawful authority and without constitutionally adequate process. That deprivation cannot be cured through a belated hearing that may never result in release. As this Court has already recognized, and as courts across the country have confirmed, the appropriate remedy for unlawful detention is release—not the possibility of future process.

Accordingly, because Petitioner's detention is unlawful and no meaningful remedy exists within the system to provide relief, this Court should grant the Petition and order his immediate release.

Respectfully submitted this 20<sup>th</sup> day of April 2026.

/s/Vicky J Currie

Vicky J Currie, WSBA #24192  
Attorney for Petitioner